

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

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NICOLE P. ERAMO, \* CIVIL ACTION 3:15-CV-00023  
\* OCTOBER 24, 2016  
Plaintiff, \* TRIAL DAY 7, VOLUME 2  
vs. \*  
\*  
ROLLING STONE, LLC, \*  
SABRINA RUBIN ERDELY, \* Before:  
WENNER MEDIA, LLC, \* HONORABLE GLEN E. CONRAD  
\* UNITED STATES DISTRICT JUDGE  
Defendants. \* WESTERN DISTRICT OF VIRGINIA  
\*\*\*\*\*

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Proceedings recorded by mechanical stenography;  
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1 (The jury is present in Open Court at 1:23 p.m.)

2 THE COURT: I can see that all 10 jurors are back in  
3 their places, ready for the continuation of this video  
4 deposition.

5 Yes, the video deposition may continue.

6 (Playing of the videotaped deposition of "Jackie"  
7 continued at 1:24 p.m.)

8 (Playing of the videotaped was paused at 3:00 p.m.)

9 THE COURT: I understand we need to take a short  
10 break before it finishes up, so let's do so. We've passed the  
11 mid-afternoon point.

12 Again, I would ask you, ladies and gentlemen, not to  
13 discuss the case with one another when you're away from us.  
14 Don't permit anyone to discuss it with you.

15 Let's plan to return at 10 after 3:00.

16 (A short recess was taken at 3:01 p.m.)

17 (The jury is present in Open Court at 3:14 p.m.)

18 THE COURT: All 10 jurors are back in their places  
19 ready to continue with the video deposition.

20 Now, folks, I understand, and rightly so, that you're  
21 tired and you've been -- those chairs are going to grow to  
22 you. You're going to have to take them home with you when  
23 this is over. But I do encourage you to stand up during dead  
24 moments in the courtroom.

25 And as far as I'm concerned, you can stand up during the

1 playing of the video depositions. I think it's not  
2 appropriate for you to stand up when a live witness is  
3 testifying. But feel free to do so when there's some dead  
4 time or a video deposition's being played.

5 So with that, we may continue.

6 Susan?

7 (The playing of the videotaped deposition of  
8 "Jackie" resumed at 3:37 p.m.)

9 (The playing of the videotaped deposition of  
10 "Jackie" concluded at 3:19 p.m.)

11 THE COURT: Is that it?

12 MR. PHILLIPS: That's the conclusion, Your Honor.

13 THE COURT: So we're ready for the next witness?

14 MR. PHILLIPS: We are, Your Honor. Briefly, I have  
15 a copy of those designations for the record I'll give to  
16 Ms. Moody. I expect we'll be putting that in the record under  
17 seal.

18 THE COURT: Yes, sir.

19 MR. PHILLIPS: PTX 149 is our next one.

20 - - -

21 (Plaintiff's Exhibit 149 marked for identification.)

22 - - -

23 MR. PHILLIPS: Then we have three exhibits we'll be  
24 offering as designations.

25 What's been marked for identification as PTX 149 --

1 THE CLERK: This is 149.

2 MR. PHILLIPS: PTX 149.

3 This one we will offer as PTX 150.

4 - - -

5 (Plaintiff's Exhibit 150 marked for identification.)

6 - - -

7 THE COURT: Are these from the Jackie deposition?

8 MR. PHILLIPS: Yes, Your Honor.

9 THE COURT: Okay. So have you agreed on the  
10 exhibits?

11 MR. PAXTON: Except for the ones that were raised  
12 with the Court where Mr. Bayard yesterday noted his  
13 objections. Those are continuing, so we won't repeat those.

14 But the last document that was just offered is entered by  
15 agreement.

16 THE COURT: All right.

17 THE CLERK: So 149 is the disk, and 150 is the  
18 redacted transcript.

19 THE COURT: So those are admitted over the  
20 Defendants' --

21 MR. PAXTON: No. Those are with our permission.

22 MR. PHILLIPS: Those are agreed.

23 MR. PAXTON: Those are agreed.

24 THE COURT: All right. Let me write down then --

25 THE CLERK: So 149 will be sealed but 150 need not



1 be sealed?

2 MR. PAXTON: Correct.

3 THE CLERK: 149 is the sealed video designated  
4 deposition.

5 THE COURT: Okay.

6 - - -

7 (Plaintiff's Exhibit 149 admitted into evidence.)

8 - - -

9 THE CLERK: 150 is the redacted designated video  
10 deposition of Jackie.

11 MR. PHILLIPS: No, those are -- sorry, those are  
12 texts between Jackie and --

13 THE CLERK: So these were part of the exhibits that  
14 were offered at the deposition?

15 MR. PAXTON: Mm-hmm.

16 THE COURT: 150.

17 THE CLERK: 150.

18 MR. PAXTON: But they're redacted since they're  
19 public.

20 150.

21 THE CLERK: I didn't get a transcript.

22 MR. SEXTON: Okay.

23 MR. PHILLIPS: 149 is the video. 150 is Jackie's  
24 texts with Sara Surface.

25 - - -

1 (Plaintiff's Exhibit 150 admitted into evidence.)

2 - - -

3 And we offer as Plaintiff's Exhibit 151 Jackie's texts with  
4 Ryan Duffin.

5 THE CLERK: Are these accepted?

6 MR. PAXTON: They are.

7 - - -

8 (Plaintiff's Exhibit 151 marked for identification.)

9 - - -

10 MR. PHILLIPS: And as 512, I believe that is -- that  
11 is an e-mail from Jackie to Elizabeth Fox.

12 MR. SEXTON: That's 152 and -- what was it?

13 MR. PHILLIPS: Jackie to Elizabeth Fox.

14 THE CLERK: E-mail dated November 7, 2014, from  
15 Jackie to Fox.

16 - - -

17 (Plaintiff's Exhibit 152 marked for identification.)

18 - - -

19 MR. PAXTON: And those are subject to the previous  
20 Court's ruling.

21 THE COURT: 151 and 152.

22 MR. PAXTON: That's correct.

23 THE CLERK: So they're admitted.

24 MR. PAXTON: Over our objection.

25 THE CLERK: Under objection. Okay.

1 - - -

2 (Plaintiff's Exhibit 151 admitted into evidence.)

3 - - -

4 (Plaintiff's Exhibit 152 admitted into evidence.)

5 - - -

6 THE COURT: All right. You may call the next  
7 witness.

8 MR. PAXTON: I have two, Your Honor.

9 MR. PHILLIPS: The defendants had a couple of their  
10 own.

11 MR. PAXTON: Sorry.

12 THE COURT: These are Defendant's Exhibits to the  
13 Jackie deposition.

14 MR. PAXTON: That's correct, Your Honor.

15 THE COURT: 65.

16 - - -

17 (Defendants' Exhibit 65 marked for identification.)

18 - - -

19 MR. PAXTON: And that would be what was discussed  
20 during the deposition as Defendants' Exhibit 25, which was a  
21 compilation of communications between Jackie and -- that were  
22 sent from Jackie to Ms. Erdely. It was testified to during  
23 Jackie's deposition.

24 MR. PHILLIPS: That's without objection.

25 THE CLERK: That will be Defendants' 65.

1 - - -

2 (Defendants' Exhibit 65 admitted into evidence.)

3 - - -

4 THE COURT: Okay.

5 MR. PAXTON: And the second, Your Honor, is a  
6 document that was discussed during the deposition as  
7 Defendants' Exhibit 32, which are a series of text messages  
8 that have been redacted between Jackie and Rachel Soltis.

9 MR. PHILLIPS: That's without objection.

10 - - -

11 (Defendants' Exhibit 66 marked for identification.)

12 - - -

13 THE COURT: Okay.

14 THE CLERK: And that's Defendants' 66.

15 THE COURT: 66.

16 - - -

17 (Defendants' Exhibit 66 admitted into evidence.)

18 - - -

19 MR. PHILLIPS: Thank you.

20 MR. PAXTON: Thank you, Your Honor.

21 THE COURT: Who's next?

22 MR. PHILLIPS: With that, Your Honor, plaintiff  
23 calls Elisabeth Garber-Paul.

24 - - - - -

25 ELISABETH GARBER-PAUL,

1 being first duly sworn, testifies and says as follows:

2 THE CLERK: You may have a seat, please.

3 DIRECT EXAMINATION

4 BY MR. PHILLIPS:

5 Q Good afternoon, Ms. Garber-Paul.

6 A Hello.

7 Q You may recall, we met some months back, but again, my  
8 name is Andy Phillips, and I represent the plaintiff, Nicole  
9 Eramo.

10 Could you just state your name for the record and  
11 identify yourself to the jury, please.

12 A I'm Elizabeth Garber-Paul. I was the fact checker on  
13 this article.

14 Q Ms. Garber-Paul, you are an employee of Rolling Stone  
15 magazine; is that correct?

16 A That is correct.

17 Q And specifically, the corporate entity that employs you  
18 is Wenner Media, LLC, one of the defendants; is that correct?

19 A That is correct.

20 Q And you -- sorry. Wenner Media and Rolling Stone's  
21 offices are located in New York City; is that correct?

22 A Yes.

23 Q And do you reside in New York as well?

24 A Yes, in Brooklyn.

25 Q Am I correct that your job title at Wenner Media is

1 assistant editor?

2 A At the time of publication, yes, it was.

3 Q Do you have a different title today?

4 A Yes. I am now culture editor for RollingStone.com.

5 Q Now, at the time of the article, your primary job  
6 responsibility for Rolling Stone was fact-checking feature  
7 articles; is that correct?

8 A Yes.

9 Q Is that still true today?

10 A No, it's not.

11 Q What are your primary responsibilities today?

12 A I now edit the culture section for the website.

13 Q And as you already mentioned, you were the Rolling Stone  
14 magazine fact checker assigned to fact check "A Rape On  
15 Campus," the article, correct?

16 A Yes.

17 Q Ms. Garber-Paul, as a fact checker for Rolling Stone  
18 magazine, would you agree that it was your responsibility to  
19 make sure that an article is completely accurate before it  
20 goes to publication?

21 A Yes, and go through line by line and word by word and  
22 make sure that everything was as accurate as possible before  
23 publication.

24 Q And you had the same responsibility with respect to "A  
25 Rape On Campus," to make sure that it was completely accurate

1 before publication, correct?

2 A Yes, sir.

3 Q When you were fact-checking articles for Rolling Stone,  
4 if you found something that was inaccurate or misleading in a  
5 draft article that you were fact-checking, it was your job to  
6 alert the author and/or the editors at Rolling Stone to that  
7 inaccuracy, correct?

8 A I would say it was more my position to -- it was more my  
9 role to alert the editor. I would go through any questions I  
10 had about something with the writer and then take any  
11 questions I had then to the editor.

12 Q And when you were fact-checking a draft, you might  
13 suggest edits/changes to improve the story's accuracy; is that  
14 true?

15 A Yes, sir.

16 Q And you would take those to your editor?

17 A Yes, sir.

18 Q Am I correct that you've been an employee at Rolling  
19 Stone since 2013?

20 A Full-time since 2013 and before that, part-time since  
21 2010.

22 Q And when you were part-time, you were freelance  
23 fact-checking for Rolling Stone; is that right?

24 A Yes, sir.

25 Q When you began working as a freelance fact checker for

1 Rolling Stone, you did not go through any sort of formal  
2 training program related to fact-checking; is that correct?

3 A No. I had already done fact-checking work at other  
4 publications, so they walked me through what the system was  
5 there, but there was no formal training.

6 Q Am I correct that Rolling Stone never provided you with  
7 any written policies or procedures for fact-checking?

8 A Yes, that's true.

9 Q And in fact, Rolling Stone does not have any written  
10 policies or procedures for fact-checking; is that correct?

11 A Yes.

12 Q And that was true in November of 2014 as well, correct,  
13 when the article was published?

14 A Yes.

15 Q At the time that the article was published, Rolling Stone  
16 had no policy relating to the use of anonymous sources; is  
17 that correct?

18 A We would take everything on an individual basis.

19 Q Was that also true with respect to the use of pseudonyms?

20 A Yeah. We would look at everything on a case-by-case  
21 basis.

22 Q At the time the article was published, Rolling Stone had  
23 no policies or procedures with respect to how fact-checkers  
24 are supposed to verify quotes; is that correct?

25 A We had nothing formal, but we -- there was nothing



1 formal, that's true.

2 Q Now, as a fact checker for Rolling Stone when working on  
3 a feature article like "A Rape On Campus," you often worked  
4 within some time constraints; is that true?

5 A Yeah. We had deadlines for the articles.

6 Q And in fact, when you were assigned an article to fact  
7 check, like "A Rape On Campus," at the time it's assigned to  
8 you, there's a deadline for the completion of fact-checking;  
9 is that correct?

10 A Yeah. We knew when the article had to go to press, so we  
11 worked within those constraints.

12 Q And is that the close date?

13 A Yes, exactly.

14 Q That deadline, the close date, that's based on Rolling  
15 Stone's preset publication date for the article; is that  
16 right?

17 A Yes, sir.

18 Q And that was, in fact, the case with "A Rape On Campus,"  
19 when you were assigned to fact-check the article, there was a  
20 preset close date when your fact-checking was supposed to be  
21 completed; is that correct?

22 A Yes. We knew what the schedule was for that issue, so we  
23 knew when we had to be completed by, yeah.

24 Q And you recall that "A Rape On Campus" closed on  
25 Wednesday, November 12th?

1 A I would have to look at a calendar, but, yes, that sounds  
2 correct.

3 Q Okay. Now, you were assigned the article "A Rape On  
4 Campus" to fact-check in early November, the first week of  
5 November, about two weeks before the article was published; is  
6 that correct?

7 A Yes. It was the Monday before that Wednesday, so it was  
8 I guess about 10 days.

9 Q Okay. And it was about a week or so before the article  
10 was due to close?

11 A A week and a couple days, so I was assigned it on a  
12 Monday, and then it was due to close the following Wednesday.

13 Q So about nine days?

14 A Yes. Thank you.

15 Q Now, you received some backup materials for your  
16 fact-checking of "A Rape On Campus" from Sabrina Rubin Erdely;  
17 is that correct?

18 A Yes.

19 Q Including some e-mail correspondence and Ms. Erdely's  
20 reporting notes; is that correct?

21 A It was some correspondence, the notes, some photographs,  
22 some documents. It was a whole Dropbox full of information.

23 Q If you could find up there, Ms. Garber-Paul, I know  
24 there's quite an array of binders surrounding you.

25 A Yes, sir.

1 Q But the document we've marked at Plaintiff's Trial  
2 Exhibit 10 is what we've been referring to as Ms. Erdely's  
3 reporting file for "A Rape On Campus." It should be spiral  
4 bound. Mr. Sexton can probably help you find it.

5 MR. SEXTON: That's it.

6 Do you want me to take this one and put it away?

7 THE WITNESS: Yes.

8 MS. McNAMARA: You might want to move in I think  
9 it's Exhibit 2A or -- it's the one that's unredacted.

10 COURT SECURITY OFFICER: 64.

11 MS. McNAMARA: It might come up and not be relevant  
12 but --

13 MR. PHILLIPS: I'm actually not asking her about it  
14 right now. I have a general question about the reporting  
15 file, but if we come to it and there's a redaction issue, I'll  
16 keep in mind that that's an option.

17 Q Actually, all I'm asking, Ms. Garber-Paul, is whether PTX  
18 10, do you recognize that as Ms. Erdely's reporting file for  
19 "A Rape On Campus"?

20 A Yes, I do.

21 Q I want to confirm that you were provided this entire  
22 reporting file prior to the publication of "A Rape On Campus";  
23 is that right?

24 A Yes, I was.

25 Q So all of the information that's contained in PTX 10,

1 Plaintiff's Trial Exhibit 10, was available to Wenner Media  
2 and Rolling Stone prior to the publication of "A Rape On  
3 Campus"; is that correct?

4 A Yes.

5 Q So we discussed, Miss Garber-Paul, how while  
6 fact-checking an article you may bring edits, suggested  
7 changes, or questions to your editor.

8 Do you recall that testimony?

9 A Yes.

10 Q Was your editor -- the editor for "A Rape On Campus" at  
11 Rolling Stone, was that Sean Woods, who's seated over here at  
12 defendants' table?

13 A Yes, it was.

14 Q And did you in fact review your fact-checking edits for  
15 "A Rape On Campus" with Mr. Woods in his office prior to  
16 publication?

17 A Yes, for each round of edits, we sat down and went  
18 through them in his office at Rolling Stone.

19 Q And isn't it true that as the assigning editor for the  
20 article and the deputy managing editor for Rolling Stone  
21 magazine, that Sean Woods was the one who had final say as to  
22 any of your proposed edits or changes to "A Rape On Campus"?

23 A Yes.

24 MR. PHILLIPS: All right. I'm going to ask Brian to  
25 call up what's previously been admitted as Plaintiff's Trial

1 Exhibit 31.

2 MR. SEXTON: I'll get you the right book here.

3 THE CLERK: It's the black one, one of the big black  
4 ones.

5 THE WITNESS: Is it this one back here?

6 MR. SEXTON: Well, there's so many. I think it is.  
7 Yes.

8 THE WITNESS: Okay. Thank you.

9 BY MR. PHILLIPS:

10 Q We'll have it on the screen for you as well, Miss  
11 Garber-Paul, but feel free to refer to whichever you're more  
12 familiar with.

13 Do you recognize Plaintiff's Exhibit 31 as an exchange of  
14 e-mails between you and Sabrina Rubin Erdely on November 3rd,  
15 2014?

16 A Yes, I do.

17 MR. PHILLIPS: Can we go all the way to first e-mail  
18 in the chain, Brian? It's going to be the last page.

19 Q So Ms. Garber-Paul, in the initial e-mail in this chain,  
20 shortly after noon on November 3rd, 2014, you informed  
21 Ms. Erdely that you were going to be fact-checking "A Rape On  
22 Campus"; is that correct?

23 A Yes, that's correct.

24 Q And this was in fact your first communication with  
25 Ms. Erdely regarding the article that became "A Rape On

1 Campus"; is that right?

2 A Regarding this article, yes.

3 Q And you also mention in your e-mail that Sean had  
4 provided you with the latest draft of the article that  
5 morning.

6 Do you see that?

7 A Yes, he had.

8 Q And you were referring to your editor, Sean Woods?

9 A Yes, I was.

10 MR. PHILLIPS: If we could go to the 4:19 p.m.  
11 e-mail, Brian.

12 Q And at 4:19, Miss Garber-Paul, Sabrina Rubin Erdely sent  
13 you the contact info for the woman that we're calling Jackie  
14 in this proceeding; is that right?

15 A Yes.

16 Q She also provided you what she called a, quote,  
17 sorry-looking transcript, end quote.

18 And my understanding is that that was an original  
19 reporting file that was longer and had some non-UVa-related  
20 materials in it, but also included everything that's in  
21 Plaintiff's Trial Exhibit 10.

22 Is that your recollection as well?

23 A That was my understanding as well, yes.

24 Q I want to look at your response to Ms. Erdely at 5:45  
25 p.m. on November 3rd.

1       You wrote, "Hey, Sabrina. Thanks so much for sending  
2 this over. Quick question: Did we ever get comment from Tom,  
3 or reach out for one? Gonna take off for the night. Talk  
4 tomorrow. Liz."

5       Is that an e-mail that you sent to Sabrina Rubin Erdely  
6 on November 3rd?

7       A     Yes, it is.

8       Q     Now, when you asked Ms. Erdely if Rolling Stone had ever  
9 gotten a comment from Tom, or reached out for one, you were  
10 referring to the supposed ringleader of Jackie's gang rape; is  
11 that correct?

12      A     Yes. I believe his name was Drew in the final article.

13      Q     Right. And it's my understanding that he was originally  
14 referred to as Tom, and that became Drew in the final  
15 published version of the article. Is that correct?

16      A     I think it was before the final published, but yeah, over  
17 the course of editing.

18      Q     And both of those were pseudonyms, fake names, right?

19      A     Yes, that's correct.

20      Q     When you asked Ms. Erdely, "did we ever get comment from  
21 Tom, or reach out for one," by "we," were you referring to  
22 sort of the Rolling Stone magazine unit of folks that were  
23 working on the story?

24      A     Yes, exactly. I was kind of using a royal "we" as, you  
25 know, Sabrina and us.

1 Q And you and Sean Woods?

2 A Mm-hmm. Yes. I'm sorry.

3 Q So you sent Ms. Erdely this e-mail asking about whether  
4 Rolling Stone ever got comment from Tom within just a few  
5 hours of reading the article for the first time; is that  
6 right?

7 A Yes. I had read it that day.

8 Q In fact, that was the first substantive question that you  
9 asked Ms. Erdely about the article, correct?

10 A Yes, it was.

11 Q You wanted to know as the fact checker for Rolling Stone:  
12 Did we find this guy, did we talk to him, right?

13 A It was a question I had, yes.

14 Q It was the first question you had?

15 A Yes, it was.

16 MR. PHILLIPS: Brian, let's call up Plaintiff's  
17 Trial Exhibit 27, specifically ERAMO-04547.

18 And Miss Garber-Paul, that's also going to be in the  
19 same binder, I hope, Tab 27.

20 THE WITNESS: Number 27?

21 MR. PHILLIPS: Yes.

22 THE WITNESS: Thanks.

23 BY MR. PHILLIPS:

24 Q Do you recognize Plaintiff's Trial Exhibit 27 as the  
25 Columbia Journalism Report that Rolling Stone commissioned



1 regarding the article?

2 A Yes, I do.

3 Q I want to ask you specifically about the statement from  
4 the Columbia folks on the page that has the Bates stamp  
5 ERAMO-04547. It should be up on your monitor there.

6 A Yes.

7 Q Columbia said: "Journalistic practice and basic fairness  
8 require that if a reporter intends to publish derogatory  
9 information about anyone, he or she should seek that person's  
10 side of the story."

11 Do you see that?

12 A Yes, I do.

13 Q And you agree with that statement, don't you?

14 A I agree that whenever possible, it's best to track down  
15 everybody mentioned in an article.

16 Q Now, the article accused Drew/Tom of being the ringleader  
17 of a violent gang rape, correct?

18 A Yes.

19 Q You would agree that's a derogatory accusation, yes?

20 A Yes.

21 Q Now, you, Rolling Stone, and Ms. Erdely had the name Jay  
22 for that person, correct? That's the name that Jackie used  
23 with you?

24 A That's the name we had been given, yes.

25 Q And the article also said that he was a member of Phi

1 Kappa Psi fraternity at the University of Virginia; is that  
2 correct?

3 A That is correct.

4 Q The article said that he was a third-year, a junior, at  
5 UVa in 2012, correct?

6 A That's correct.

7 Q The article also said that he worked as a lifeguard at  
8 the UVa pool in the fall of 2012, correct?

9 A That's correct.

10 Q Am I correct that Rolling Stone did not seek or obtain  
11 Drew/Tom/Jay's side of the story prior to publication?

12 A I know that Sabrina had spent a long time looking for  
13 this individual, and I, using the information that we had,  
14 tried to find him and was not able to.

15 And we did not think that he would be recognizable, so we  
16 thought that using a pseudonym would be acceptable, especially  
17 since Jackie felt so uncomfortable -- it was my understanding  
18 that Jackie was so uncomfortable disclosing the name of her  
19 rapist.

20 Q Now, I want to make sure I understand your testimony.

21 You just testified that it was Rolling Stone's belief  
22 that Drew, the supposed ringleader of the gang rape as  
23 described in the article, would not be recognizable?

24 A That was my belief, yes.

25 Q Rolling Stone knew his name or thought they knew his

1 name. They had the name Jay. They stated that he was in Phi  
2 Kappa Psi, that he was a junior who worked at the university  
3 pool in the fall of 2012.

4 And it's your testimony that had that -- had that  
5 individual existed as a real person, he would not have been  
6 identifiable to his peers?

7 A We believed that based on the fact that we were unable to  
8 find him, that he was going to be unrecognizable.

9 MR. PHILLIPS: Lets go back to the e-mail chain if  
10 we could, Brian. That was -- you're ahead of me.

11 Q That was back to Plaintiff's Trial Exhibit 31,  
12 Ms. Garber-Paul.

13 A Okay.

14 Q Do you see that Ms. Erdely responded to your comment  
15 about reaching out for a comment from Tom/Drew at 6:16 p.m. on  
16 November 3rd?

17 A Yes.

18 Q And you'd asked if we ever identified him or sought  
19 comment. She said, "Unfortunately, the answer is no and no."

20 Do you see that?

21 A Yes.

22 Q And you understood that at the time to mean that  
23 Ms. Erdely did not get a comment from Tom and had not reached  
24 out for a comment from Tom, correct?

25 A I understood that to be that, yes, she had not gotten a

1 comment.

2 Q So within a few hours of reading the draft article for  
3 the first time, you, the Rolling Stone fact checker, asked the  
4 author whether she had ever gotten a comment from the alleged  
5 rapist or reached out for one, correct?

6 A Yes, that's true.

7 Q And Ms. Erdely told you, no, she had not, correct?

8 A Yes, that's true.

9 Q Isn't it true that the following day you spoke with both  
10 Sean Woods and Ms. Erdely regarding the fact that Ms. Erdely  
11 had not located, identified, or spoken to the alleged  
12 ringleader of the gang rape?

13 A Yes, we spoke about it extensively the next day, and I --  
14 it was my understanding that Sean and Sabrina had been  
15 speaking about it before I was brought into the --

16 Q Okay. So there's no doubt that as of approximately  
17 November 4th, 2014, Mr. Woods, the deputy managing editor for  
18 Rolling Stone magazine, was aware that Ms. Erdely did not know  
19 who this individual was and had not spoken to him, correct?

20 A That's my understanding, yes.

21 Q During your conversation with Ms. Erdely, she told you  
22 she didn't know who this person was, right?

23 A She told me that Jackie was very scared of disclosing the  
24 full name of her attacker.

25 Q So she in fact told you that Jackie refused to disclose

1 the identity of this individual to her, right?

2 A I don't believe she used the word "refused," but she told  
3 me she was very scared.

4 Q She told you that she'd asked Jackie for it, right?

5 A Yes.

6 Q So we can quibble over the word "refused," but Ms. Erdely  
7 told you she had asked Jackie for this individual's name, and  
8 Jackie had declined to provide it. Is that fair?

9 A Yes, that's fair.

10 Q So you, as the Rolling Stone fact checker, were aware as  
11 of the first week of November 2014 that Jackie declined to  
12 disclose to the magazine the name of the alleged ringleader of  
13 her gang rape, correct?

14 A Yes, that's correct.

15 Q Now, in the course of fact-checking this article, you  
16 spoke to Jackie on the telephone on a couple of occasions; is  
17 that correct?

18 A On two occasions for about two hours each, and then over  
19 the course of the next few days a few more times.

20 Q And when you spoke to Jackie, you asked her for the name  
21 as well, didn't you?

22 A I don't -- I don't remember that I pressed her for the  
23 full name. I definitively talked to her about the attack and  
24 about -- I asked her what the first name was that she had  
25 given to Sabrina.

1 Q Did you, as the Rolling Stone fact checker, make any  
2 effort to obtain the real identity of Drew from Jackie when  
3 you spoke to her?

4 A I asked if she would talk to me about it, but I did not  
5 press her for the full name of the attacker.

6 Q And you never learned that information on your own prior  
7 to publication, correct?

8 A No, I did not.

9 Q So just to confirm, it's true that at the time of  
10 publication of "A Rape On Campus," you, the fact checker for  
11 Rolling Stone magazine, did not know the identity of the  
12 individual that supposedly perpetrated the gang rape that was  
13 described in the article; is that correct?

14 A It's true, I did not know his full name. I believed him  
15 to be a real person.

16 Q You had only the name Jay; is that correct?

17 A That's correct.

18 Q Did you have any understanding of whether Jay was a  
19 nickname? Was it short for Jack? Jake? James?

20 Did you have any idea at the time of publication?

21 A I came learn that his -- I believed his name to be James,  
22 though I may have learned that from Sabrina.

23 Q After publication of the article?

24 A I believe it was before, but it's a little bit --

25 Q Did you identify any James who was a member of Phi Kappa

1 Psi prior to the publication of the article?

2 A We did not have a roster of the members of Phi Kappa Psi.

3 Q The answer to my question is "no"?

4 A Yes, that's true.

5 MR. PHILLIPS: Brian, let's pull up Plaintiff's

6 Trial Exhibit 26, if we can.

7 Q Do you recognize Plaintiff's Trial Exhibit 26 as a chain  
8 of e-mails between you and Sabrina Rubin Erdely on the 4th and  
9 5th of November, 2014?

10 A Yes.

11 MR. PHILLIPS: Brian, could we go back a page?

12 Q And I want to look at that e-mail at the bottom here,  
13 your 3:36 p.m. e-mail to Ms. Erdely.

14 Do you see where I'm at?

15 A Sure.

16 Q And you told Ms. Erdely in this e-mail that you'd just  
17 spoken to Jackie for two hours, correct?

18 A For about two hours, yes.

19 Q You also referenced setting up a second "phoner" on  
20 Thursday. Do you see that?

21 A Yeah, that was the second phone call I referred to  
22 before.

23 Q And you did in fact have a second phone call with Jackie  
24 a few days after this?

25 A Yes, I did.

1 Q And you asked Jackie -- or, I'm sorry.

2 You asked Ms. Erdely in the second paragraph of your  
3 e-mail about cutting a line about Jackie contracting syphilis.

4 Do you see that?

5 A Yes, I did.

6 Q You also noted that Jackie asked you to change the name  
7 of Tom.

8 Do you see that?

9 A I had asked Jackie if she had anyone in her life named  
10 Tom, because I wanted to make sure that we weren't  
11 inadvertently talking about somebody that perhaps she knew.

12 She told me that she dated a person named Tom. So that's  
13 why we changed it from Tom to Drew, I believe.

14 Q Okay. When had she dated this person named Tom; do you  
15 know?

16 A I don't know that.

17 Q Did Rolling Stone ever speak to that individual?

18 A No, we didn't.

19 MR. PHILLIPS: Could we go to the next e-mail in the  
20 chain, Brian?

21 Q Sabrina Rubin Erdely's response to you. She said:  
22 Fantastic. I'm glad to hear it went well. Thanks for letting  
23 me know and for letting her know we'll be accommodating her,  
24 which seems crucial towards getting her through this process.

25 Yes, let's take out the syphilis line and change Tom to



1 something else.

2 And then it continues.

3 Do you see that?

4 A Yes, I do.

5 Q Am I correct that the initial draft of the article that  
6 you received contained an assertion that Jackie had contracted  
7 syphilis from her sexual assault?

8 A Yes, that's what the article said.

9 Q Jackie never provided you or Ms. Erdely with any  
10 confirmation that she was in fact diagnosed with syphilis; is  
11 that correct?

12 A That's true. We had taken it out of the article, so I  
13 didn't put too much stock in it. Also, I didn't think that  
14 necessarily having her prove she contracted syphilis -- you  
15 could contract that through any kind of sexual encounter.

16 Q Well, and that's fair.

17 It wouldn't necessarily prove that she was gang raped,  
18 would it?

19 A No, that's true.

20 Q But it would corroborate that she had syphilis, as she  
21 told Ms. Erdely that she did; is that true?

22 A That's true but --

23 Q The medical records would corroborate that she in fact  
24 had been tested and diagnosed with syphilis, as she told  
25 Ms. Erdely, correct?

1 A That would have corroborated that, yes.

2 Q Did you know, as the Rolling Stone fact checker prior to  
3 publication, whether Sabrina Erdely had ever requested such  
4 documentation from Jackie, medical records diagnosing  
5 syphilis?

6 A I don't know.

7 MR. PHILLIPS: Brian, let's pull up the rest of that  
8 e-mail, please.

9 Q In her 5:07 p.m. e-mail to you, Ms. Erdely also gave you  
10 what she called a, quote, note of warning.

11 Do you see that?

12 A Yes, I do.

13 Q And she said: "When you talk to any one of these UVa  
14 girls, assume you're talking to all of them because they share  
15 information like lightning. I've already gotten a text from  
16 one student activist" -- and activist is in quotation marks --  
17 "really a covert mouthpiece for the administration, named Sara  
18 Surface, that I think she must have sent within minutes of  
19 your call with Jackie. She's one of the people who's been  
20 trying to convince Jackie not to use her name at all, as per  
21 Dean Eramo's wishes. In Sara's text, she demanded to know  
22 whether we identified Jackie as a member of One Less. I  
23 haven't answered her yet."

24 Is that an e-mail that you received from Ms. Erdely?

25 A Yes, it is.

1 Q Ms. Erdely refers to a woman named Sara Surface as a,  
2 quote/unquote, activist, and calls her a covert mouthpiece for  
3 the administration.

4 Do you see that?

5 A Yes, I do.

6 Q Sara Surface at the time was a college student at the  
7 University of Virginia, correct?

8 A Yes, that was my understanding.

9 Q And she was a friend of Jackie's?

10 A Yes. That was my understanding as well.

11 Q And you actually spoke with Sara Surface during your  
12 fact-checking of the article; is that correct?

13 A Yes.

14 Q And you were aware at the time that she was an  
15 accomplished student advocate on matters and issues relating  
16 to sexual assault, right?

17 A Yes, I knew she was a member of One Less, and I knew she  
18 did activist work on campus.

19 Q And when you spoke to Sara Surface, she expressed to you  
20 her viewpoint that the school was getting a lot better at its  
21 handling of the problem of sexual assault on campus; isn't  
22 that correct?

23 A Yes, I spoke to her extensively about that and helped --  
24 and worked with Sabrina to draft up language to insert into  
25 the article to make those points clear.

1 Q Did Sabrina ever explain to you why she referred to Miss  
2 Surface as a covert mouthpiece for the administration?

3 A No. To be honest, I didn't put very much stock into this  
4 paragraph. I took this to be -- I understood this as perhaps  
5 Sabrina's interpretation. But I spoke with Sara Surface as an  
6 authority on the activism that was going on on campus.

7 Q You made reference earlier, Miss Garber-Paul, to rounds  
8 of fact-checking for the article. Do you recall that?

9 A Yes, I did.

10 Q So I wanted to move on to that topic.

11 A Sure.

12 Q Am I correct that you did three major rounds of  
13 fact-checking on different drafts of this article?

14 A Yes. There was the Word document that was given to me  
15 initially that I referred to on that first Monday e-mail.

16 And then there was -- later in the week it was placed  
17 into layout, and I saw it as a Round 1.

18 And then I believe the following week it went to Type  
19 Final, which was the final copy that we worked on.

20 Q I have copies of what I believe to be these rounds for  
21 you to try and avoid binder flipping here, so I'm going to  
22 provide those to you. I think it might make it easier?

23 A Do you guys actually have the larger copies of these?  
24 Because these were originally 11 by 14s.

25 MS. McNAMARA: Yeah, Andy, we actually have them.

1 Do you want us to move them in? It will be much easier for  
2 the witness to have them.

3 MR. PHILLIPS: Sure, sure, if you have them.

4 We'll also put them up on the screen, of course.

5 THE WITNESS: Okay. Can I move this binder for now?  
6 Is that okay?

7 MR. PHILLIPS: Yeah, you can put that aside.

8 MS. McNAMARA: Can we just get them for you, Andy --

9 MR. PHILLIPS: Sure.

10 MS. McNAMARA: -- and then you can have her...

11 Do you want to have these marked as three separate or --

12 MR. PHILLIPS: Yes, let's mark them as separate  
13 exhibits, please.

14 MS. McNAMARA: Should we bring them in as  
15 defendants'?

16 MR. PHILLIPS: We can put them in as plaintiff's.  
17 Let's do that. I think our next in line is 153, but Miss  
18 Moody will correct me if I'm wrong.

19 THE CLERK: 153, yes.

20 MS. McNAMARA: So this one would be 153.

21 THE CLERK: These are agreed on?

22 MS. McNAMARA: These are agreed on?

23 MR. PHILLIPS: Yes.

24 - - -

25 (Plaintiff's Exhibit 153 marked for identification.)

1 - - -

2 MR. SEXTON: These are galleys of the article?

3 THE WITNESS: Yes.

4 MS. McNAMARA: Two of them are galleys. One is the  
5 Word version.

6 MR. SEXTON: Is 153 the Word version?

7 MS. McNAMARA: Correct.

8 THE CLERK: 154 is Round 1 galley.

9 - - -

10 (Plaintiff's Exhibit 154 marked for identification.)

11 - - -

12 THE CLERK: And 155 is marked Type Final?

13 - - -

14 (Plaintiff's Exhibit 155 marked for identification.)

15 - - -

16 THE COURT: So what's 154, Susan?

17 MS. McNAMARA: Round 1.

18 THE COURT: Round 1?

19 - - -

20 (Plaintiff's Exhibit 153 admitted into evidence.)

21 - - -

22 (Plaintiff's Exhibit 154 admitted into evidence.)

23 - - -

24 (Plaintiff's Exhibit 155 admitted into evidence.)

25 - - -

1 BY MR. PHILLIPS:

2 Q If I can ask you, Miss Garber-Paul, first to take a look  
3 at the document I had handed you that's labeled PTX 42, the  
4 smaller version.

5 A Oh, sure.

6 Q And can you confirm that that is in fact the first round  
7 of fact-checking edits that you did for "A Rape On Campus"?

8 A Yes, it is.

9 Q And is that the same document as what has now been marked  
10 as Plaintiff's Trial Exhibit 153, albeit 153 is a much larger  
11 version of the same document?

12 A Yes, it is.

13 MR. PHILLIPS: Brian, I ask you to call up 42,  
14 please.

15 Q Miss Garber-Paul, this document, Plaintiff's Trial  
16 Exhibit 42 and Plaintiff's Trial Exhibit 153, contains  
17 handwritten notations that you made as part of your  
18 fact-checking process for the article; is that correct?

19 A Yes.

20 Q Am I correct that all of the handwritten notations on  
21 this document were made by you?

22 A Yes, sir, they were.

23 Q And this would have been during the first week of  
24 November 2014?

25 A Yes.

1 Q And some of these notes were made while you were on the  
2 phone with Jackie; is that correct?

3 A Many of them were, yes.

4 Q I want to start by looking at an example of one of your  
5 edits.

6 A Sure.

7 Q I'm going to ask you to go to the page with the Bates  
8 stamp RS004812.

9 Do you see on the top right-hand corner there's a note  
10 that says "she wasn't really yelling"?

11 A Yes.

12 Q And this is in the section that's describing the gang  
13 rape attack, correct?

14 A The initial phase of it, yes.

15 Q And there's an arrow going back from that note to the  
16 text, the portion of the text where it had said that Jackie  
17 was yelling during her assault.

18 Do you see that?

19 A I'm sorry?

20 Q There's an arrow from a portion of the text in the draft  
21 that says that Jackie was "yelling during her assault," and  
22 then you draw an arrow and had written a note that said "she  
23 wasn't really yelling."

24 Do you see that?

25 A Yes.



1 Q So what you're doing there is you're making a note that  
2 this may be something in the article we want to change. This  
3 is something that Jackie's told me is inaccurate; is that  
4 fair?

5 A It's something Jackie clarified for me, yeah.

6 Q Miss Garber-Paul, you should also have in front of you  
7 one of the documents I gave you as PTX 1. That's the final  
8 published version of the article.

9 A Yes, I do. Sorry.

10 Q And do you recognize Plaintiff's Trial Exhibit 1 as the  
11 final published version of the article?

12 A Yes, I do.

13 Q I'm going to ask you to turn to the page with the Bates  
14 stamp RS001072.

15 A Mm-hmm. Sorry. Yes.

16 Q And in particular, in the right-hand column, the  
17 paragraph beginning "two years later," with the big T.

18 Do you see that?

19 A Yes, I do.

20 Q It says in the final version of the article, "Two years  
21 later, Jackie, now a third-year, is worried about what might  
22 happen to her once this article comes out. Greek life is huge  
23 at UVa, with nearly one-third of undergrads belonging to a  
24 fraternity or sorority, so Jackie fears the backlash could be  
25 big, a, quote, shitshow predicted by her now-former friend

1 Randall, who, citing his loyalty to his own frat, declined to  
2 be interviewed."

3 Do you see that?

4 A Yes, I do.

5 Q I want to look at the edits that you proposed to this  
6 paragraph during your first round of fact-checking. So again,  
7 that's PTX 42 and/or PTX 153.

8 A Can you tell me which Bates stamp that is?

9 Q Yes. Let's go to page RS004814.

10 MR. PHILLIPS: I'm being told I'm squiggling on the  
11 screen inadvertently.

12 MR. CLARE: Just touch down there.

13 Q All right. So Ms. Garber-Paul, so looking at RS004814 in  
14 the first fact-checking round, do you see in the same sentence  
15 here, it's about in the middle of the page or slightly above  
16 it, "Greek life is huge at UVa with one-third of undergrads  
17 belonging to a fraternity or sorority, so Jackie fears the  
18 backlash could be big, a shitshow predicted by her now former  
19 friend Randall, who, citing his loyalty to his own frat,  
20 declined to be interviewed."

21 Do you see that?

22 A Yes, I do.

23 Q Do you see that in the left-hand margin, next to the  
24 quote about the article being a shitshow from Randall, you'd  
25 written a note that says, "Put this on Jackie, question mark,"

1 correct?

2 A Yes, I wrote that.

3 Q You were suggesting with that note that the article  
4 should make it clear that this supposed quote came from Jackie  
5 and not directly from Randall, correct?

6 A Yes.

7 Q That's what you meant by "put this quote on Jackie"?

8 A Yeah.

9 Q And you understood at the time, did you not, that Rolling  
10 Stone had not interviewed or sought comment from Randall?

11 A I understood that we had asked Jackie if we could get in  
12 touch with him, and she told us that he was not interested in  
13 speaking to us.

14 Q Right. So it was Jackie who told you that Ryan declined  
15 to be interviewed -- sorry -- Randall declined to be  
16 interviewed. It was not Randall who told you directly that he  
17 declined to be interviewed?

18 A Yes, that's true.

19 Q And that's what you were trying to make clear with this  
20 note here, correct?

21 A Yes.

22 Q Let's look back at that same sentence in PTX 1, the final  
23 version of the article.

24 Do you see that the same shitshow quote from Randall  
25 ended up being published by Rolling Stone exactly as it

1 appeared in that draft?

2 A Yes, I do.

3 Q So am I correct that your suggestion to put this on  
4 Jackie was not ultimately adopted by the decision makers at  
5 Rolling Stone?

6 A After a discussion, we decided not to, yes.

7 Q Looking at the draft again, PTX 42, same sentence.

8 You'd also suggested a note there where it says that  
9 Randall declined to be interviewed, citing loyalty to his own  
10 frat, you wrote a note that said "who Jackie says declined to  
11 be interviewed."

12 Do you see that?

13 A Yes. I was referring to the same thing. They weren't  
14 two separate thoughts really. I was just trying to figure out  
15 a way that maybe we could put that in.

16 Q Same issue: You were proposing ways that Rolling Stone  
17 could make it clear to readers that Rolling Stone had never  
18 spoken with Randall and that Randall had not declined to be  
19 interviewed, at least not directly, correct?

20 A Yes, that's true.

21 Q That suggested language was not adopted by the decision  
22 makers at Rolling Stone, correct?

23 A Yes, that's true, though in retrospect, I wish we had.

24 MR. PHILLIPS: Brian, if we could just go back to  
25 the -- no, let's go back to the PTX 42 but without the full

1 quote there.

2 Let's go back to PTX 42, the same page we were on.

3 Q And I just wanted to ask you about this note on the  
4 right-hand side here, also in red.

5 Did you write on this draft next to the same sentence,  
6 "Is this on her too? Any way we can confirm with him?"

7 Is that your note?

8 A Yes, I wrote that.

9 Q You underlined "this," correct?

10 A Yes, though often when I'm writing, I underline things  
11 just as a tick of my note taking.

12 Q What you were asking, Ms. Garber-Paul, was whether  
13 Rolling Stone could confirm with Randall that Randall actually  
14 declined to be interviewed, correct?

15 A Yes. I was wondering -- it was a note to myself to find  
16 out if there's a way that we could get in touch with him.

17 Q And to confirm whether Randall had actually referred to  
18 the article, the coming article, as a shitshow, correct?

19 A To confirm that he declined to comment.

20 Q And in fact, you asked Jackie when you spoke to her if  
21 you could get in touch with Randall, and she said no, he's  
22 declined to participate; is that correct?

23 A She told me that he had been very adamant that he was not  
24 interested in speaking with a national magazine.

25 Q So Jackie declined to provide you with any contact

1 information for Randall; is that correct?

2 A I asked if she would put us in touch, and she made it  
3 very clear to me that he was not interested. So I didn't  
4 press the matter.

5 Q Did you ever ask Jackie for Randall's full name, his real  
6 name?

7 A I had a first name, but I did not have a last name. And  
8 I don't recall that I asked her for that, no.

9 Q You had the name Ryan, correct?

10 A Yes.

11 Q You don't recall if you ever asked Jackie for a last name  
12 to go with Ryan?

13 A No.

14 Q You never asked Jackie for his e-mail address?

15 A Well, I asked if we could be put in touch, and I -- when  
16 she said that he was very adamant about not talking to a  
17 magazine, I respected that, and I didn't press the matter.  
18 And then that's when I made the suggestion to make it more  
19 clear that this -- this had come from Jackie.

20 Q Now, the fact that Jackie said that Randall didn't want  
21 to participate in the article, that didn't stop you, the  
22 Rolling Stone magazine fact checker, from reaching out to  
23 Randall to confirm that that was actually the case, did it?

24 A No, but I didn't have contact information for him, so I  
25 couldn't.

1 Q So the fact that Jackie refused to provide Rolling Stone  
2 with contact information from Randall -- for Randall, that  
3 prevented you from reaching out to Randall; is that correct?

4 A It was my understanding that he was very adamant to not  
5 speak with us, so we didn't have contact information, and we  
6 couldn't reach out.

7 Q That understanding came from Jackie, correct?

8 A Yes, though at this point, we had 100 percent faith in  
9 Jackie.

10 Q But Jackie told you that Randall, an individual who could  
11 have corroborated much of her story, corroborated or disproved  
12 much of her story about the events of that evening, Jackie  
13 told you that Randall didn't want to talk to you, and you  
14 accepted that representation; is that correct?

15 A Well, I would say that he could have corroborated the  
16 immediate aftermath of what happened, maybe not much of her  
17 story but the immediate aftermath of what happened that night.  
18 And, yes, I believed her when she told me that a college  
19 student didn't want to speak to a national magazine.

20 MR. PHILLIPS: Let's look at Plaintiff's Trial  
21 Exhibit 1, the published version of the article. I want to go  
22 to RS001073.

23 And if we could blow up the left-hand column here of  
24 1073.

25 Q There are two sentences in there I want to ask you about,

1 Ms. Garber-Paul.

2 A Sure.

3 Q About the middle of that paragraph, it says, "But the  
4 dearth of attention isn't because rape doesn't happen in  
5 Charlottesville. It's because at UVa, rapes are kept quiet,  
6 both by students-who brush off sexual assaults as regrettable  
7 but inevitable casualties of their cherished party culture-and  
8 by an administration that critics say is less concerned with  
9 protecting its students than it is with protecting its own  
10 reputation from scandal."

11 Do you see that?

12 A Yes, I do.

13 Q I want to look at your notes on Plaintiff's Trial Exhibit  
14 42, 153 if you're looking at the large version.

15 A Sure. What's the Bates number there?

16 Q It's going to be RS004815.

17 Do you see the same statement in this draft that you  
18 fact-checked about an administration that's less concerned  
19 with protecting students than with protecting its own  
20 reputation from scandal?

21 A Yes, I do.

22 MR. PHILLIPS: Brian, if we could step back a bit  
23 and look at the note next to that.

24 Q Did you write that note, Ms. Garber-Paul?

25 A Yes, I did.



1 Q It says, "Yes, but not Dean Eramo," correct?

2 A Yes. That was based on my conversation with Jackie, and  
3 she expressed to me that opinion.

4 Q Jackie expressed to you the opinion that Dean Eramo was  
5 not more concerned with protecting the school's reputation  
6 than she was with protecting students, correct?

7 A Yes, but she was not the critics to which we were  
8 referring in that sentence. We cite the critics directly  
9 below them by name in quotes.

10 Q And Ms. Erdely told us today that none of those critics  
11 knew Ms. Eramo personally or knew anything about Jackie's  
12 story.

13 Do you have any reason to disagree with that?

14 A No. But we said the administration. We weren't  
15 referring to Dean Eramo specifically there.

16 Q Does the article mention any other UVa administrators  
17 that interacted with Jackie about her sexual assault other  
18 than Ms. Eramo?

19 A We weren't specifically talking about Jackie's assault in  
20 this paragraph, and we do mention other UVa administration  
21 members in the article.

22 Q None of whom are described as interacting with Jackie,  
23 are they?

24 A No, but this paragraph is about UVa in general, not about  
25 Jackie's story specifically.

1 Q Does any other member of the University of Virginia's  
2 administration's photograph appear in this article besides  
3 Ms. Eramo?

4 A No.

5 Q All right. Let's go back to Plaintiff's Trial Exhibit 1,  
6 the final published version of the article. And I'm on  
7 RS001074, please. And in particular, I'm looking at the  
8 second full paragraph in the right-hand column beginning with  
9 "She was having."

10 Do you see where that is?

11 A Yes, I do.

12 Q There are quotes from students called Andy and Cindy in  
13 the article.

14 Do you see that?

15 A Yes, I do.

16 Q Andy's quoted as asking Jackie when she was crying about  
17 her gang rape, "You're still upset about that?"

18 Do you see that?

19 A Yes, I do.

20 Q Cindy is described as a "self-declared hookup queen," and  
21 the article says that she asked Jackie, referring to her gang  
22 rape, "Why didn't you have fun with it? A bunch of hot Phi  
23 Psi guys?"

24 Do you see that?

25 A Yes, I do.

1 Q And according to the article, Andy called Jackie a baby  
2 for being upset about being gang raped.

3 Do you see that?

4 A Yes.

5 Q Let's pull up PTX 42 and look at your notes on the first  
6 fact-checking round for this paragraph. And I'd like you to  
7 go to RS004821.

8 Do you see the same statements here in the draft that you  
9 fact-checked?

10 A Yes, I do.

11 Q Although the man referred to as Andy in the final version  
12 of the article is referred to as Andrew in this draft; is that  
13 right?

14 A Yes. There are some edits to it, but it's substantively  
15 the same, it seems.

16 Q Let's look at the notes that you wrote in the right-hand  
17 margin next to this paragraph.

18 You've drawn a bracket around this whole paragraph  
19 containing these Andrew and Cindy quotes.

20 Do you see that?

21 A Yes, I did.

22 Q And you wrote a note that says, "Ask Sean. Need to put  
23 on Jackie?"

24 Do you see that?

25 A Yes, I wrote that.

1 Q You wrote that note?

2 A Yes, I did.

3 Q What your note was referring to was whether the supposed  
4 quotes from Andrew and Cindy need to be put on Jackie rather  
5 than on Andrew and Cindy, right?

6 A That's correct.

7 Q What you meant was ask Sean, you're referring to Sean  
8 Woods, the deputy managing editor of Rolling Stone magazine,  
9 correct?

10 A Yes, I was.

11 Q What you meant was ask Sean Woods whether the article  
12 should make it more clear that these supposed quotes from  
13 Andrew and Cindy came from Jackie and Jackie only and that  
14 Rolling Stone had never spoken to Andrew and Cindy. Correct?

15 A Yeah. This was a note to myself for when I went into his  
16 office to have the sit-down to discuss this first draft, that  
17 this was something that I wanted to discuss with him.

18 Q And if you look at the published version of the article,  
19 PTX 1 at RS10074. Do you see that the same quotes from Andrew  
20 and Cindy appear in the final published version of the  
21 article?

22 A Yes. We came to the determination that this was very  
23 much still in her voice, and we were comfortable with having  
24 these quotes appear as they did.

25 Q The final published version of the article does not

1 incorporate your suggestion to put these quotes on Jackie,  
2 does it?

3 A No. After a conversation, we agreed that they should run  
4 as is. And when we went to press, I fully believed them.

5 Q So you suggested putting these quotes on Jackie -- and  
6 let's be clear, putting them on Jackie would have meant  
7 saying, you're still upset about that? Jackie says Andy asked  
8 one Friday night. Correct? That would be an example of  
9 putting it on Jackie?

10 A Yes, exactly.

11 Q Or "Jackie claims that Cindy said why didn't you have fun  
12 with it, a bunch of hot Phi Psi guys," right?

13 A Yes.

14 Q That's not what Rolling Stone did, right? Rolling Stone  
15 did not put these quotes on Jackie. These quotes are  
16 attributed directly to Andy and Cindy in the final published  
17 version of the article, correct?

18 A Yes, that's correct.

19 Q Your testimony is that after a conversation about this  
20 with Sean Woods, that was the decision that was made, correct?

21 A Yes.

22 Q You're aware now, Ms. Garber-Paul, as we sit here today,  
23 that the individual called Andy in the article is actually  
24 name Alex Stock; is that correct?

25 A Yes, I am.

1 Q And you're aware that the individual called Cindy in the  
2 article is actually named Kathryn Hendley; is that correct?

3 A Yes, I am.

4 Q It was your understanding when you were fact-checking the  
5 article for Rolling Stone that Sabrina Erdely, the reporter,  
6 had asked Jackie for Andy's contact information; is that  
7 correct?

8 A It was my understanding that Sabrina had tried to find  
9 contact information for all three of these individuals, yeah.

10 Q And one of the ways she tried was by asking Jackie,  
11 right, because Jackie said they were friends of hers?

12 A Jackie said they used to be friends, and they hadn't been  
13 friends after these incidents. They had not been in touch in  
14 a long time.

15 Q Okay. So let's unpack that.

16 So you, as the Rolling Stone fact checker, you knew that  
17 Sabrina Rubin Erdely had asked Jackie for Andy's contact  
18 information, his full name and his contact information,  
19 correct?

20 A Yes.

21 Q And you knew that Jackie had declined to provide that  
22 information, correct?

23 A It was my understanding that they were not interested in  
24 speaking with us and that's why she didn't give us that  
25 information.

1 Q Let me make sure I have an answer to the question I  
2 asked, which was it was your understanding prior to  
3 publication that Jackie had declined to provide Ms. Erdely  
4 with contact information or a full name for Andy; is that  
5 right?

6 A Yes.

7 Q And Cindy, you also knew that Ms. Erdely had asked Jackie  
8 for Cindy's contact information and full name, correct?

9 A Yes. I knew she had looked for these individuals, yes.

10 Q And you knew that Jackie had declined to provide  
11 Ms. Erdely with Cindy's contact information and real name,  
12 correct?

13 A Yes.

14 Q And your understanding, prior to publication, was that  
15 the reason Jackie declined to provide these individuals' names  
16 was that she said she was on bad terms with them or had a  
17 falling out with them; is that right?

18 A I'm not entirely sure why she declined, to be honest.

19 Q Did you ask Ms. Erdely why Jackie refused to provide Andy  
20 and Cindy's contact information so that you could fact-check  
21 the article with them?

22 A I don't recall having that conversation with her. I do  
23 know that we -- that Sabrina had tried to find these  
24 individuals.

25 Q Okay. Well, you knew that she had not gotten those names

1 or their numbers or their e-mail addresses from Jackie, the  
2 girl who used to be friends with them, right?

3 A Yes. I knew she wasn't able to track them down.

4 Q Did you, as the Rolling Stone magazine fact checker, ask  
5 Ms. Erdely why, why is Jackie refusing to provide us with  
6 these people's contact information?

7 A I don't remember having that conversation.

8 Q You, as the Rolling Stone fact checker, did not contact  
9 these individuals prior to publication to ask them to verify  
10 that they actually said any of the quotes that are attributed  
11 to them in the article; is that correct?

12 A No. I did not have the contact information for them, so  
13 I was not able to reach out for them -- reach out to them.

14 Q Ultimately, as the editor, it was Sean Woods' decision to  
15 go forward with publishing these supposed quotes from Andy and  
16 Cindy, these very callous quotes, without actually verifying  
17 with Andy and Cindy that they said those things; is that  
18 correct?

19 A Yes.

20 MR. PHILLIPS: Let's pull up PTX 42 again, the first  
21 fact-checking round.

22 Q I want to ask you to go to RS004828.

23 A 482 -- I'm sorry?

24 Q 4828.

25 You see the first full paragraph there that begins "If



1 Dean Eramo" -- it says, "If Dean Eramo was surprised at  
2 Jackie's story of gang rape, it didn't show. A short woman  
3 with curly dark hair and a no-nonsense demeanor," and then it  
4 continues.

5 Do you see that?

6 A Yes.

7 Q You had circled the description of Ms. Eramo as having a  
8 no-nonsense demeanor, and you had written a question mark next  
9 to it, correct?

10 A Yes, I did.

11 Q And then in the left-hand margin, you'd written,  
12 referring to Ms. Eramo, "Very sweet, second mom figure." Is  
13 that correct?

14 A Yes. That was what Jackie told me in my conversation  
15 with her. She made it very clear how much respect she had for  
16 Dean Eramo.

17 Q And Jackie made it very clear that she did not want to  
18 see Dean Eramo characterized as indifferent to her, didn't  
19 she?

20 A I don't believe she used the word "indifferent," and I  
21 don't see what here would say indifferent.

22 Q I'm not referring to this particular sentence. I'm  
23 asking about your conversations with Jackie.

24 A Oh. Yes, she did not feel that Dean Eramo had been  
25 indifferent to her, no.

1 Q Let's go back to Plaintiff's Trial Exhibit 1, page  
2 RS001076. This is the published version of the article.

3 Now, I want to ask you about the full paragraph in the  
4 right-hand column there. It says, "Absent much guidance,  
5 Jackie would eventually wonder how other student victims  
6 handled her situation. But when she clicked around on UVa's  
7 website, she found no answers. All she found were the UVa's  
8 police's" -- I'm sorry, "All she found were the UVa police's  
9 crime logs, which the university makes available online but  
10 are mostly a list of bike theft, vandalism, and public  
11 drunkenness complaints."

12 Do you see that statement in the final published version  
13 of the article?

14 A Yes, I do.

15 MR. PHILLIPS: Brian, let's pull up PTX 42, the  
16 first fact-checking round at RS004830.

17 Q In your fact-checking graph, do you see that you had  
18 underlined this sentence, "All she could find were the UVa  
19 police's crime logs"?

20 A Yes.

21 MR. PHILLIPS: Brian, if you could pull back a  
22 little bit.

23 Q And you wrote a note there that says, "She says she never  
24 looked into this," correct?

25 A Yes. She told me that she hadn't really gone through

1 them extensively. She had seen them, and she had scrolled  
2 through them quickly and then got a move on to whatever else  
3 she was doing.

4 Q All right. Let's look at your fact-checking edits for  
5 round 2.

6 A This is confusing, but it's called Round 1.

7 Q I'm sorry. Round 1. Your second round of fact-checking.

8 A Yes.

9 Q But it's called Round 1.

10 A Yes.

11 Q So am I correct that Plaintiff's Trial Exhibit 43 and the  
12 large version you have in front of you I believe is  
13 Plaintiff's Trial Exhibit 154 is the second round of  
14 fact-checking edits that you did for "A Rape On Campus"?

15 A Yes, it is.

16 Q Do you see that in this version the article appears more  
17 like it does in the final published version? It's sort of  
18 arranged in that way now?

19 A Yes.

20 Q And what time frame were you making the fact-checking  
21 edits on Round 1 here?

22 A This came in kind of late on -- later in the week of that  
23 first week of fact-checking, so it was either Thursday or  
24 Friday and then it went to either Monday or Tuesday of the --  
25 probably Tuesday of the following week. So kind of right in

1 the middle.

2 Q Okay. And as with the first version that we looked at,  
3 am I correct that all of the handwritten notes on Plaintiff's  
4 Trial Exhibit 43 and Plaintiff's Trial Exhibit 154 are yours?

5 A Yes, they are.

6 MR. PHILLIPS: Brian, let's pull up the first page  
7 of PTX 1, the final version of the article.

8 Q I want to ask you about the opening paragraph of the  
9 article.

10 Do you see that at the very top of the page in big bold  
11 letters?

12 A Yes, I do.

13 Q And that says, "Jackie was just starting her freshman  
14 year at the University of Virginia when she was brutally  
15 assaulted by seven men at a frat party. When she tried to  
16 hold them accountable, a whole new kind of abuse began."

17 Do you see that?

18 A Yes.

19 Q That opening paragraph, that's called the deck of the  
20 article; am I correct?

21 A Yes, it is.

22 Q We'll look at your fact-checking edits to the deck of the  
23 article on Plaintiff's Trial Exhibit 43.

24 In the first sentence, it looks like you -- in the draft  
25 it says, "Jackie was brutally assaulted by seven upper

1 classmen at a frat party," and you'd suggested changing that  
2 to say "students" or "men"; is that right?

3 A Yes. And we didn't know that they were necessarily all  
4 upper classmen.

5 Q And in the final version of the article, they were  
6 identified as seven men; correct, so that kind of was  
7 accepted?

8 A Yes. Yes, it was.

9 Q Okay. On your fact-checking draft, PTX 43, you circled  
10 the second sentence of the deck; is that right, the one that  
11 says, "When she tried to hold them accountable, a whole new  
12 kind of abuse began"?

13 A Yes, I did.

14 Q And did you write the note that's next to that deck on  
15 the right-hand side?

16 A I did. Part of my job as a fact checker is to be very  
17 overly literal in reading all the different parts of the  
18 article, including the deck. And I had initially read that to  
19 mean that somehow the abuse she faced on campus, mostly at the  
20 hands of her peers, was somehow worse than the initial attack,  
21 and I didn't agree with that, but after talking that through  
22 with the editors, I -- or with Sean, I realized that it wasn't  
23 necessarily a judgment that one was worse than the other. It  
24 was just kind of what she faced.

25 Q So let's be clear. That same statement that's in the

1 draft deck on PTX 43, that's unchanged in the final published  
2 version of the article. It appears exactly the same, correct,  
3 "When she tried to hold them accountable, a whole new kind of  
4 abuse began"?

5 A Yes, that's true.

6 Q And as the Rolling Stone fact checker working on "A Rape  
7 On Campus," your first reaction to reading that sentence in  
8 the deck was, "Nope." Is that correct?

9 A That was my off-the-cuff initial reaction to this, yes.

10 Q In fact, you underlined "nope" twice?

11 A Yes, I did.

12 Q You discussed that note with Sean Woods, the deputy  
13 managing editor of Rolling Stone and Ms. Erdely's good friend,  
14 correct?

15 A He was the deputy managing editor of Rolling Stone and  
16 the editor I was working with on this, and, yes, I did discuss  
17 it with him.

18 Q And Sean Woods, the deputy managing editor of Rolling  
19 Stone magazine, made the final decision to retain that same  
20 language in the deck in the final version of the article,  
21 "When she tried to hold them accountable, a whole new kind of  
22 abuse began," am I correct?

23 A Yes, and I agreed with him.

24 Q I'd like to go to PTX 43, page RS004862.

25 And in particular, the middle column above the pull

1 quotes.

2 Do you see where I am, Ms. Garber-Paul?

3 A Yes, I do.

4 Q And this is in the section in the draft that you read  
5 that's describing Jackie's gang rape at Phi Kappa Psi; is that  
6 correct?

7 A Yes, it is.

8 Q Do you see that there are a number of quotes in here from  
9 Jackie's supposed assailants?

10 A Yes. There are, though -- sorry. Yes, yes, there are.

11 Q For example, it states that one said, quote, "Grab its  
12 mother fucking leg," correct?

13 A Yes, though it seems that that's being placed on her.  
14 But, yes, that quote is in here.

15 Q Okay. Am I correct that at the time Rolling Stone  
16 magazine published "A Rape On Campus" -- well, first of all,  
17 let me back up.

18 This same quote appears in the final published version of  
19 the article, correct?

20 A I believe so, but -- yes.

21 Q Am I correct that at the time Rolling Stone published the  
22 article, as the fact checker for Rolling Stone magazine, you  
23 didn't have any idea who that person was that supposedly said  
24 that to Jackie, correct?

25 A Yeah, I don't think Jackie really knew.

1 Q Sitting here today as the fact checker for Rolling Stone  
2 magazine, do you have any idea if that person exists?

3 A I don't know either way.

4 Q What about the quote in the next paragraph? And I  
5 believe this is discussing the gentleman who supposedly  
6 assaulted Jackie with a beer bottle. This is someone speaking  
7 to the gentleman assaulting Jackie with the beer bottle.

8 It quotes one of the supposed assailants as saying --  
9 pardon my language -- "Pussy. What? She's not hot enough for  
10 you?"

11 Do you see that?

12 A Yes.

13 Q At the time Rolling Stone magazine published this  
14 article, did you, the fact checker, have any idea who the  
15 person was that supposedly said that?

16 A No, we did not have their identity.

17 Q As you sit here today, do you have any idea if that  
18 person exists?

19 A I don't know either way.

20 Q The previous paragraph also claims that the gang rapists  
21 called each other nicknames like Armpit and Blanket.

22 Do you see that?

23 A Yes, that's what Jackie recalled to me.

24 Q And that was in the draft that you fact-checked as well  
25 as the final published version of the article, correct?



1 A Yes, it was.

2 Q You don't know who those people are either, do you?

3 A No, but they seemed like pretty generic nicknames to me.

4 Q At the time Rolling Stone magazine published "A Rape On  
5 Campus," you didn't have any idea who those people were, did  
6 you?

7 A No, but I was comfortable that this was a rape victim  
8 recounting her own sexual assault, and I was comfortable  
9 having it in her voice. And these were her recollections of  
10 that night.

11 Q As the Rolling Stone fact checker, you never asked anyone  
12 from Phi Kappa Psi if there were pledges or brothers of that  
13 fraternity in 2012 with the nicknames Armpit or Blanket,  
14 correct?

15 A That's true.

16 Q Let's look at the third paragraph in the middle column of  
17 RS004862.

18 This is describing the young man that was allegedly told  
19 to assault Jackie with a beer bottle.

20 It says, "As the last boy sank onto her, Jackie was  
21 startled to recognize him. He attended her tiny anthropology  
22 discussion group."

23 And then it describes how he was unable to "get it up"  
24 and was jeered at by the crowd.

25 Do you see that?

1 A Yes, I do.

2 Q Okay. And the article goes on to claim that this  
3 classmate of Jackie sexually assaulted her with a beer bottle,  
4 correct?

5 A Yes, it does.

6 Q There's identifiable information about this individual in  
7 here, correct, in the draft that you fact-checked?

8 A Only that they had both been in an anthropology  
9 discussion group.

10 Q A tiny anthropology discussion group in the fall semester  
11 of 2012, correct?

12 A Yes.

13 Q Did you, the Rolling Stone magazine fact checker, ask  
14 Jackie what the name of this class was or who the professor  
15 was?

16 A No. I had a discussion with her about this portion of  
17 the story, and I asked her about the class and about what size  
18 it was. And I made sure that there were multiple boys in that  
19 class so that we wouldn't be calling out, like, the only man  
20 who happened to be in this class with her. And she recounted  
21 this to me in great detail.

22 Q What was the size of the class?

23 A To the best of my recollection -- let me see if it's in  
24 my notes, in the other one.

25 To the best of my recollection, it was about 15 people.

1 Q You didn't ask Jackie for the man's name, did you?

2 A No. Jackie had already expressed that she was very  
3 scared of her attackers and not willing to disclose the names  
4 of her attackers.

5 Q You certainly didn't know the individual's name at the  
6 time of publication, correct?

7 A No, I did not.

8 Q As you sit here today, do you have any idea if that  
9 person exists or not?

10 A I don't know either way.

11 Q On page RS004862, Plaintiff's Trial Exhibit 43.

12 Looking at the paragraph beginning with "When Jackie came  
13 to."

14 Do you see that?

15 A Yes.

16 Q And this is the portion of, well, both the draft and the  
17 final article that describes this meeting that Jackie  
18 allegedly had with three friends after her assault?

19 A Yes.

20 Q And in this draft and in the final article, both Andy and  
21 Cindy are quoted as discouraging Jackie from reporting her  
22 sexual assault, correct?

23 A Yes, that's true.

24 Q Again, as the Rolling Stone fact checker, you never  
25 contacted Cindy or Andy to verify these quotes.

1 I know we looked at other quotes prior, but you never  
2 verified these quotes with Cindy and Andy either; is that  
3 correct?

4 A Yeah, I didn't have their contact information.

5 Q You also never spoke with the young man called Randall in  
6 the article to verify his quotes, correct?

7 A Yes. Like I testified before, it was my understanding  
8 that he very much did not want to speak with Rolling Stone.  
9 And I asked to be put in touch and that had not happened, so I  
10 was unable to verify those quotes.

11 Q Okay. Rolling Stone magazine, at the time of  
12 publication, believed Randall, Cindy, and Andy to all be  
13 students at the University of Virginia, correct?

14 A Yes, that's true.

15 Q Were you aware when you were fact-checking the article  
16 that the University of Virginia has a publicly-available  
17 database of students, a directory?

18 A I was not aware at the time of publication, and -- but  
19 given that all I had were first names, I -- even if I had  
20 them, I'm not sure what I would have been able to do with  
21 that.

22 Q So because Jackie refused to provide you with their  
23 names, you couldn't search for them in the directory, even had  
24 you known about it?

25 A Yes, that's true.

1 Q You learned after publication of the article that Rachel  
2 Soltis, a young woman Erdely spoke to, had in fact given  
3 Sabrina Rubin Erdely Kathryn Hendley's name; isn't that  
4 correct?

5 A Yes, I found that out after publication.

6 Q And Kathryn Hendley is the young woman called Cindy in  
7 the article, right?

8 A Yes.

9 Q Sabrina Erdely never told you prior to publication that  
10 she had Kathryn Hendley's name; is that correct?

11 A It was my impression that Sabrina did not know that she  
12 had that name.

13 Q It was in her notes, correct?

14 A Yes. I -- I was not given that before publication, but I  
15 have no reason to think she was holding it from me.

16 Q You mean you were not given that information verbally by  
17 Sabrina Erdely?

18 A Yes, that's true.

19 Q But you had possession of the notes, correct?

20 A Yes.

21 Q You had possession of Kathryn Hendley's name at the time  
22 of publication, correct?

23 A It was not her name spelled correctly. It was -- it  
24 was --

25 Q Hindley, right? Within one vowel?

1 A I think there were two different -- I mean, again I'd  
2 have to actually look at the notes, but there were two  
3 different things, two different last names, two different  
4 versions of spellings of last names. And I read that portion  
5 of the notes, but I did not realize what we had there.

6 Q We saw earlier that Rolling Stone attributed to Kathryn  
7 Hendley some fairly callous quotes, I mean, "Why don't you  
8 have fun with it."

9 It had also referred to her as a "self-declared hookup  
10 queen"; is that correct?

11 A Yes.

12 Q Those quotes don't reflect very well on Miss Hendley, do  
13 they?

14 A No, not well.

15 Q But nobody at Rolling Stone ever contacted her prior to  
16 publication to ask if she made those unbelievably callous  
17 statements to Jackie, correct?

18 A Had we realized that we had the contact information, we  
19 absolutely would have reached out. But as we went to press, I  
20 did not have contact information for that individual, and I  
21 did not feel I was able to reach out.

22 Q So you, as the Rolling Stone fact checker, had been told  
23 Kathryn Hendley's name prior to publication. Say, if Sabrina  
24 had told you her name, you would have absolutely reached out  
25 to her, correct?

1 A Yes.

2 Q Were you aware at the time of your fact-checking that  
3 Alex Pinkleton, one of the --

4 THE COURT: If you're switching individuals, this  
5 might be a good time for a break.

6 MR. PHILLIPS: I am switching individuals. This is  
7 a great time, Your Honor.

8 THE COURT: All right. So we have one more  
9 mid-afternoon break, ladies and gentlemen, and now it has come  
10 that time.

11 I'll again ask that while you're away from us that you  
12 not discuss the case with one another. Do not permit anyone  
13 to discuss it with you.

14 I'll ask the witness not to discuss her pending testimony  
15 with counsel from either side.

16 Let's plan to come back at about 5 till 5:00.

17 (A short recess was taken at 4:42 p.m.)

18 (The jury is present in Open Court at 4:57 p.m.)

19 THE COURT: Mr. Phillips, you may continue.

20 MR. PHILLIPS: Thank you, Your Honor.

21 THE COURT: All 10 jurors being present and  
22 accounted for.

23 BY MR. PHILLIPS:

24 Q Miss Garber-Paul, before we continue, I want to ask you  
25 about Alex Pinkleton.

1           You remember Alex Pinkleton?

2   A     Yes, I do.

3   Q     And she was one of the sources for "A Rape On Campus,"  
4   correct?

5   A     Yes.

6   Q     Did you have a fact-checking call with Miss Pinkleton?

7   A     Yes, I did.

8   Q     And were you aware when you spoke to Miss Pinkleton that  
9   she knew "Cindy," Kathryn Hendley, in real life?

10   A     No, I was not.

11   Q     So you didn't ask Miss Pinkleton for Kathryn Hendley's  
12   name, I take it?

13   A     I did not.

14                 MR. PHILLIPS: Brian, let's bring up Plaintiff's  
15   Trial Exhibit 1, the final published version of the article,  
16   RS001072.

17   Q     Miss Garber-Paul, do you see below the bolded pull quote  
18   there in the final version of the article there's a statement  
19   that says, "Lots of people have discouraged her from sharing  
20   her story, Jackie tells me with a pained look, including a  
21   trusted UVa dean to whom Jackie reported her gang rape  
22   allegations more than a year ago."

23                 Do you see that?

24   A     Yes, I do.

25   Q     As the fact checker for Rolling Stone magazine, you



1 understood prior to publication that the reference to the  
2 trusted UVa dean was a reference to Ms. Eramo, correct?

3 A Yes, I did.

4 Q Let's go to PTX 43. And I want to look at your  
5 fact-checking edits to this statement and draft.

6 A Yes.

7 Q Do you see that where it says, "lots of people have  
8 discouraged her from sharing her story," you drew a red line  
9 up from there, and at the top of the right-hand margin you  
10 wrote, "so publicly."

11 Do you see that?

12 A Yes, I wrote that.

13 Q So you had suggested an edit to this sentence to say,  
14 "Lots of people have discouraged Jackie from sharing her story  
15 so publicly, Jackie tells me with a pained look"; is that  
16 correct?

17 A Yes, but then I realized we had "going public" in the  
18 following sentence, and that would have just introduced a  
19 repetition of the word "public."

20 Q You also proposed a change below that where it says, "who  
21 fretted that the article might complicate future proceedings";  
22 is that right?

23 A Yes, I wrote that.

24 Q And you wrote a bracket around that language about the  
25 trusted UVa dean discouraging Jackie from sharing her story.

1 Do you see that?

2 A Yes, I do.

3 Q And to the right of that you wrote a note, and that note  
4 says, "Talk to Sean," right?

5 A Yes. I wanted to discuss this section with him, so it  
6 was a note to myself.

7 Q Okay. That was a note to yourself to discuss this  
8 statement about Dean Eramo with Sean Woods, correct?

9 A Yes, correct.

10 Q And Sean Woods, the deputy managing editor of Rolling  
11 Stone, ultimately decided to publish this language in the  
12 final article as it is in the draft without these proposed  
13 edits, correct?

14 A After sitting down and talking with him in his office  
15 about all my questions about this draft, we determined that it  
16 was clear enough as stated, and we didn't need to put in any  
17 caveats.

18 Q Okay. So despite the questions that you have in your  
19 fact-checking draft, after sitting down and discussing them  
20 with Sean Woods, you all decided to publish this as written,  
21 correct?

22 A Yes, we did.

23 Q Let's go to RS004864, Plaintiff's Trial Exhibit 43?

24 MR. PHILLIPS: Brian, if you could blow up for us  
25 the top left-hand column there.

1 Q Do you see a quote in the draft from a UVa student named  
2 Brian Head that says, "Most impressive person at UVa is the  
3 person who gets straight As and goes to all the parties,  
4 explains fourth-year student Brian Head."

5 Do you see that?

6 A Yes, I do.

7 Q You wrote a note in the margin next to that quote. That  
8 note that you wrote says, "Add that he's the president of One  
9 in Four." Is that correct?

10 A Yes, it is.

11 Q And you knew that One in Four was a student group  
12 comprised of male students that did sexual assault prevention  
13 and advocacy outreach work on the UVa campus, correct?

14 A Yes. I believe I discussed that with Brian Head.

15 Q Okay. And you were questioning whether Rolling Stone  
16 should identify Brian Head as such as the president of that  
17 organization, correct?

18 A Yes, that's true.

19 Q The final published version of the article does not  
20 identify Brian Head as the president of One in Four, correct?  
21 It just identifies him as a UVa student?

22 A Yes. We determined that since One in Four hadn't been  
23 introduced yet, we -- it wasn't necessary to add that into the  
24 identification for Brian Head in this instance.

25 Q And Sean Woods made the ultimate decision on that, again,

1 right, not to include a note identifying Brian Head as the  
2 president of One in Four?

3 A Yes, but I agreed with him on this.

4 Q Let's go to RS004865. Top left-hand column. There's a  
5 quote from a student named Sara Surface.

6 Do you see that?

7 A Yes, I do.

8 Q Says, quote, "I don't know many people who are engrossed  
9 in the party scene and have spoken out about their sexual  
10 assaults, says third-year student activist Sara Surface."

11 Do you see that?

12 A Yes.

13 Q And on this graph, you crossed out the word "activist,"  
14 correct?

15 A I did.

16 Q You were aware at the time that Sara Surface, like Brian  
17 Head, was a prominent student advocate on sexual assault  
18 prevention and awareness issues, correct?

19 A Yes, I was.

20 Q And I believe you mentioned earlier that you were aware  
21 that Sara Surface was a member of the student group One Less,  
22 correct?

23 A Yes. She walked me through all of the positive changes  
24 that had been happening at UVa.

25 Q Sara Surface had specifically asked you to include her

1 affiliation with One Less in the article, correct?

2 A Yes. But again, we hadn't introduced One Less in the  
3 article, and it seemed like it might be confusing to a reader  
4 to introduce an organization that we hadn't fully explained  
5 what it was yet.

6 Q So like Brian Head, Sara Surface was simply identified as  
7 a student discussing the party culture at the University of  
8 Virginia. She was not identified as a student advocate,  
9 correct?

10 A Yes, that's true.

11 Q Let's go to page RS004868, Plaintiff's Trial Exhibit 43.  
12 Specifically, the bottom paragraph in the left-hand column.

13 You see that this is the section discussing Jackie's  
14 first meeting with Emily Renda?

15 A Yes, I do.

16 Q And Emily Renda is identified as a fourth-year student  
17 who had become active in One Less.

18 Do you see that?

19 A Yes.

20 Q You wrote a note in the left-hand margin next to Emily  
21 Renda's name, and you wrote, "Add that she is now employed by  
22 UVa"; is that correct?

23 A Yes, that was a note I wrote.

24 Q And you knew that at the time Erdely interviewed her,  
25 Emily Renda actually worked in the dean of students office at

1 UVa on sexual assault prevention issues, correct?

2 A I knew that she was working with UVa, yes.

3 Q You were suggesting that Rolling Stone should note that  
4 this prominent advocate on sexual assault matters who was so  
5 helpful to Jackie is actually employed by the university now;  
6 is that correct?

7 A It was a note to see if there was a way to put that in,  
8 yeah.

9 Q That did not make it in, right? The final published  
10 version of the article does not note that Emily Renda is  
11 employed by the University of Virginia; is that correct?

12 A That's true, yes.

13 Q Let's go to page RS004865, the same document. Middle  
14 column, below the bolded pull quote.

15 And we just discussed Alex Pinkleton. There's a quote  
16 here from Alexandria Pinkleton, correct?

17 A Yes, there is.

18 Q Miss Pinkleton's quote is, "'Hot girls who are really  
19 drunk always get in,'" speaking of frat parties. "'It's a  
20 good idea to act drunker than you really are,' advises  
21 third-year Alexandria Pinkleton, expertly clad in the UVa  
22 after-dark uniform of a midriff-bearing sleeveless top and  
23 shorts. 'Also, you have to seem very innocent and vulnerable.  
24 That's why they love first-year girls.'"

25 Do you see that?

1 A Yes.

2 Q You were aware that prior to publication, like Sara  
3 Surface and like Brian Head, Miss Pinkleton was a prominent  
4 student advocate on sexual assault issues at the University of  
5 Virginia, correct?

6 A Yes, and later in the article, I mention that she  
7 accompanies Jackie to a meeting with Dean Eramo.

8 Q You also knew that Alex Pinkleton was a member of One  
9 Less, correct?

10 A Yes.

11 Q Miss Pinkleton is not identified in the article as a  
12 student activist, correct?

13 A No, she's not, though again, she does accompany Jackie to  
14 meetings and expresses her opinions about these things, so...

15 Q Let's go to page RS004866 of Plaintiff's Trial Exhibit  
16 43.

17 This is the section of the article that follows Jackie's  
18 first meeting with Ms. Eramo.

19 Do you see that?

20 A Yes, I do.

21 Q It says, "Absent any real guidance, Jackie would  
22 eventually wonder how other student victims tend to handle her  
23 situation." Then it continues.

24 Do you see that?

25 A Yes.

1 Q And you wrote a note off of the statement in the draft  
2 Jackie lacked any real guidance, and you wrote in a circle  
3 there, "harsh, question mark"; is that correct?

4 A Yes, I did. And I believe we changed that.

5 Q And that's correct, that was changed in the final  
6 published version of the article, correct? It was changed  
7 from "absent any real guidance," which you thought was too  
8 harsh, right?

9 A Yeah.

10 Q And it was changed to "absent much guidance," correct?

11 A Yes. I felt more comfortable with that, so Sean and I  
12 changed it.

13 Q Let's go to page RS004857 of Plaintiff's Trial Exhibit  
14 43.

15 A I'm sorry. Can you repeat that number?

16 Q Oh, sorry. 4867 of Plaintiff's Trial Exhibit 43.

17 This is the rape school quote, right?

18 A Yes, it is.

19 Q It says that -- mentions President Sullivan's explanation  
20 about best practices and reporting of data, and then it says,  
21 "Jackie got a different explanation when she'd ultimately  
22 asked Dean Eramo the same question. She says Eramo gave her a  
23 wry look and answered, 'because nobody wants to send their  
24 daughter to the rape school.'"

25 Correct?



1 A That's what this draft said, yes.

2 Q And you wrote a note there on the left that said, "Did  
3 Jackie describe this?" Correct?

4 A Yes, that was a question to myself.

5 Q And you were referring to the wry look that Ms. Erdely  
6 wrote, speaking of Eramo saying this statement to Jackie?

7 A Yes. And I followed up with Jackie to discuss this in  
8 particular.

9 Q And you changed it from "She says Eramo gave her a wry  
10 look" to "She says Eramo answered wryly"; is that correct?  
11 That was the edit to that sentence?

12 A Yes, because I thought the "answered wryly" was just  
13 referring to the quote itself being wry, not the manner in  
14 which she said it.

15 Q Now, the quote itself, "Because nobody wants to send  
16 their daughter to the rape school," whether it was made wryly  
17 or with a wry look, that quote remained in the final published  
18 version of the article, correct?

19 A Yes, it does.

20 Q And you were in contact with the University of Virginia  
21 during your fact-checking of the article, correct?

22 A Yes, I was quite a bit.

23 Q You asked them a lot of questions?

24 A I did.

25 Q You never asked UVA if Dean Eramo ever referred to UVA as

1 the rape school, did you?

2 A They had made it very clear to me that they weren't going  
3 to talk to me about interactions specifically between Dean  
4 Eramo and students, which I thought was part of their privacy  
5 policy and respected, and so I wasn't going to ask them about  
6 a comment that was made during a closed-door meeting between a  
7 student and a dean.

8 Q You didn't try, you didn't ask, correct?

9 A No, I did not ask.

10 Q You also didn't ask Ms. Eramo. You had her e-mail  
11 address, correct?

12 A Yes, but I was told specifically by UVa PR to direct all  
13 questions through UVa.

14 Q And you never asked UVa PR, can you confirm or deny  
15 whether Dean Eramo has ever said UVa is the rape school?

16 A This seemed to be an off-the-cuff comment that she had  
17 made to Jackie in a closed-door meeting, and she had told  
18 Sabrina about it, and she had offered it to me without much  
19 prompting, so I -- and we also put it on Jackie, saying "She  
20 says Eramo said that." And so, yes, I was comfortable with  
21 this.

22 Q There's a note in the left-hand margin, again we've seen  
23 this a few times, it says, "Ask Sean," right?

24 A Yes.

25 Q And you meant ask Sean Woods about the rape school quote,

1 right?

2 A Yes, I did.

3 Q You had discussions with Sean Woods about whether Rolling  
4 Stone should publish the rape school quote, didn't you?

5 A I had a discussion to make sure that we were making it  
6 clear enough that this came from Jackie's recollection of this  
7 conversation. I don't believe -- I mean, yeah, we definitely  
8 discussed this.

9 Q Isn't it true that you told Sean Woods that this quote  
10 came only from Jackie and that you couldn't confirm it any  
11 other away?

12 A Yes, I did. And I believed we made that clear in the way  
13 that we wrote it.

14 Q Sean Woods made the decision to publish this quote,  
15 correct?

16 A Yes, ultimately it was his decision.

17 Q Let's go to page RS004868. Middle column.

18 Do you see a quote there from a young woman named Rachel  
19 Soltis?

20 A Yes, I do.

21 Q Rachel Soltis is quoted in this draft and in the final  
22 version of the article as saying, "They should have done  
23 something in Jackie's case. Me and several other people know  
24 exactly who did this to her."

25 Do you see that?

1 A Yes, I do.

2 Q You spoke with Rachel Soltis prior to the publication of  
3 the article when you were doing your fact-checking, correct?

4 A Yes, sir, I did.

5 Q Now, both this draft and the final version of the article  
6 claim that Rachel Soltis or at least Ms. Erdely claims that  
7 Rachel Soltis told her that she knew who gang raped Jackie,  
8 correct?

9 A Yes.

10 Q At the time you were fact-checking the article, you were  
11 aware that Rolling Stone had no idea who any of these supposed  
12 gang rapists were, correct?

13 A Yes, that's true.

14 Q You saw in this draft article that Erdely had included  
15 this supposed quote from Rachel Soltis claiming that Rachel  
16 Soltis knew who they were, right?

17 A This was in Sabrina's transcript of her conversation with  
18 Rachel, so I had no reason to not believe that it was  
19 absolutely accurate, and I discussed -- I discussed many  
20 things with Rachel, and I believe all of the points made in  
21 here we discussed.

22 Q You did not verify the accuracy of this quote with Rachel  
23 Soltis, did you? You did not ask Rachel Soltis if she said  
24 this to Ms. Erdely?

25 A No. I mean, I -- we generally don't read back quotes,

1 but I did discuss the substance of this quote. We didn't go  
2 through who exactly did this to her.

3 Q So you had in front of you when you were fact-checking  
4 the article this supposed quote from Rachel Soltis saying, "Me  
5 and several other people know exactly who did this to her,"  
6 and you the fact checker for Rolling Stone magazine did not  
7 ask Rachel Soltis who? Am I correct?

8 A Yes. I did not feel it was my role as fact checker to  
9 try and independently track these people down when I knew  
10 Sabrina had been working on it for a long time.

11 Q You did not feel it was your role as the fact checker for  
12 Rolling Stone magazine to verify that any of these nine  
13 supposed gang rapists exists; is that your testimony?

14 A I had felt that we had verified that this had taken  
15 place. I did not work with Rachel to try to independently  
16 track down these individuals, that's true.

17 Q Still in this fact-checking draft, Plaintiff's Trial  
18 Exhibit 43, still on page RS004868, I want to look at this  
19 description of Jackie e-mailing Ms. Eramo after the supposed  
20 bottle attack.

21 Do you see that?

22 A I'm sorry. Can you point out -- oh, here we go. Yes.

23 Q It says of Jackie, "She e-mailed Dean Eramo so they could  
24 discuss the attack - and discuss another matter too which was  
25 troubling Jackie a great deal. Because through her

1 ever-expanding network, Jackie had come across something  
2 deeply disturbing: Two other young women who, she says,  
3 confided that they too had recently been Phi Kappa Psi gang  
4 rape victims."

5 Do you see that?

6 A Yes, I do.

7 Q At the time Rolling Stone published "A Rape On Campus,"  
8 it did not know who these supposed other victims were,  
9 correct?

10 A We had first names.

11 Q You had first names or nicknames that Jackie used when  
12 describing these girls, correct?

13 A Yes.

14 Q Okay. I believe it was Maddie and Becky?

15 A Yes.

16 Q You did not have last names for these young women,  
17 correct?

18 A No, we didn't. Jackie had told us that these girls had  
19 come to her in confidence. I believe in another part of the  
20 article we talk about how she was having, you know, young  
21 women come to her and tell her about their experiences. So we  
22 took this to be, you know, examples of that. And that she was  
23 not comfortable giving us their full names because they had  
24 come to her in confidence.

25 Q Okay. So it was your understanding as the fact checker

1 for Rolling Stone prior to publication that Ms. Erdely had  
2 asked Jackie to put her in touch with these young women; is  
3 that correct?

4 A Yes.

5 Q And Jackie had declined to provide full names or contact  
6 information for these individuals, correct?

7 A Yes. But she did provide a series of text messages  
8 between her and one of the victims in which the victim seemed  
9 very scathing in her rejection of talking to Rolling Stone.

10 Q So Jackie declined a request to actually provide these  
11 women's names or contact information so that Rolling Stone,  
12 Ms. Erdely or you, could speak with them, correct?

13 A Yes, that's true.

14 Q At the time Rolling Stone published "A Rape On Campus,"  
15 isn't it true that Rolling Stone magazine had not spoken to  
16 anyone other than Jackie who claimed to know who these two  
17 other alleged Phi Kappa Psi victims were?

18 A No, though we did note that -- we did know that they were  
19 trying to figure out who they were. We did know that other  
20 individuals were also trying to figure out who these people  
21 are.

22 Q Right, but that wasn't my question, Ms. Garber-Paul.

23 My question was, isn't it true that Rolling Stone  
24 magazine did not speak to anyone other than Jackie who claimed  
25 to know who these two young women were?

1 A Yes. It was our understanding that Jackie was the only  
2 one who knew.

3 Q Nobody else had spoken with these individuals, nobody at  
4 Rolling Stone, nobody at UVa, none of Jackie's friends,  
5 correct?

6 A That was my understanding.

7 Q As you sit here today, do you have any idea whether those  
8 two other Phi Kappa Psi victims are real people or not?

9 A I don't know either way.

10 Q The third round of fact-checking edits, is that  
11 Plaintiff's Trial Exhibit 45, and the big version, Plaintiff's  
12 Trial Exhibit 155?

13 A Got it.

14 Q Is this your third round of fact-checking notes?

15 A Yes, it is.

16 Q That's the one that says "Type Final" on it?

17 A Yes, exactly.

18 Q And again, as with the prior two, all of the handwriting  
19 on this document is yours, correct?

20 A Yes.

21 Q And in this draft, you can confirm on the third page, but  
22 I believe we now have the name of Drew for Jackie's attacker;  
23 is that correct? We look at 4852 at the top.

24 A Yes. You -- wait. I might -- I think I'm missing 4852  
25 in here.



1 Q It's the page after the illustration of the young woman  
2 with handprints all over her.

3 A Yeah, mine goes straight from 51 to 53.

4 MS. McNAMARA: Here, let me give you -- sorry. Must  
5 have been a duplication error.

6 THE WITNESS: Yup.

7 MS. McNAMARA: There you go.

8 THE WITNESS: Thank you.

9 MR. PHILLIPS: And perhaps we can correct the  
10 official exhibit.

11 MS. McNAMARA: Yeah, yeah, tomorrow we'll put in the  
12 right one so it has the page.

13 BY MR. PHILLIPS:

14 Q I want to look at page RS0053. And specifically the  
15 caption there under the picture that says, "Partying with the  
16 Wahoos."

17 Do you see that?

18 A Yes.

19 Q The caption says, "UVa students call themselves Wahoos  
20 after a fish that can drink twice its own body weight. In  
21 2012, the year of Jackie's rape, UVa was rated the nation's  
22 top party school."

23 Do you see that?

24 A Yes.

25 Q And you wrote a couple notes on this caption. You wrote

1 on the left-hand side, "Does this need alleged?"

2 Do you see that?

3 A Yes.

4 Q And you were suggesting that it be edited to say "In  
5 2012, the year of Jackie's alleged rape, UVa was rated the  
6 nation's top party school," correct?

7 A Yes, that was my suggestion.

8 Q The note in the top right says, "Says she was," correct?

9 A Yes, that's what that says.

10 Q You were suggesting this be edited to say, "In 2012, the  
11 year Jackie says she was raped," correct?

12 A Yes, that would have accomplished the same thing as  
13 alleged, in my opinion. They were two different suggestions  
14 to get to the same place.

15 Q Again, what you were attempting to accomplish as the fact  
16 checker for Rolling Stone in these proposed edits was to put  
17 it more on Jackie, right?

18 A Yes, though we determined that given that we make it very  
19 clear in the article that this is her alleged rape, that we  
20 were comfortable having it not in the -- not in the caption  
21 here.

22 Q Okay. And in fact, if we pull up Plaintiff's Trial  
23 Exhibit 1 and RS001073, that caption does not include your  
24 proposed edits, correct? It does not say alleged, and it does  
25 not say the year Jackie says she was raped, correct?

1 A Yes.

2 Q On page RS00586 of this document, the left-hand column.

3 A I'm sorry, can you repeat that number again?

4 Q Sure. RS004856.

5 A Yes.

6 MR. PHILLIPS: Not there yet. I want to go to the  
7 left-hand column, please. And specifically, Brian, if you can  
8 pull up the middle paragraph of the left-hand column and  
9 include the notes there.

10 Q Did you write this note next to -- or after the sentence  
11 that says, "Eramo is beloved by survivors who consider her a  
12 friend and confidante," did you write this note that says,  
13 "Jackie repeatedly calls her an asset to the community"?

14 A Yes, I did.

15 Q And you were suggesting including that in the final  
16 version of the article, correct?

17 A I believe we included it in a different place.

18 Q Because that's a sentiment that Jackie repeated to you  
19 multiple times on the phone when you spoke with her, isn't it?

20 A Yes, and -- yes, she did. And it just seemed that this  
21 wasn't the right place to put it in.

22 Q Let's go to Plaintiff's Trial Exhibit 1, the final  
23 published version of the article. And we're on RS001076 here,  
24 Ms. Garber-Paul.

25 A Yes.

1 Q Do you see this photo illustration of Ms. Eramo that  
2 appeared in the article?

3 A Yes, I do.

4 Q It depicts Ms. Eramo seated at her desk with a crying  
5 woman in front of her and protest imagery behind her, correct?

6 A Yes.

7 Q Let's look at your fact-checking edits, Plaintiff's Trial  
8 Exhibit 45 at RS00107 -- not 1076. That's going to be  
9 RS004856.

10 Did you write the note next to this illustration of  
11 Ms. Eramo that says, "Is this too mean?"

12 A Yes, I wrote that.

13 Q And "mean" is double underlined, correct?

14 A Yes, it is.

15 Q And that was, in fact, your initial reaction as the fact  
16 checker for Rolling Stone magazine to seeing this proposed  
17 photo illustration of Ms. Eramo, correct?

18 A Yes, though like I said before, part of my job as the  
19 fact checker is to be very overly literal in looking at words  
20 and images on the page, and I took this to perhaps mean that  
21 Dean Eramo was turning her back on the student activist  
22 community at UVa, which, as we clearly state in the article,  
23 she does not. She's very supportive of the activist community  
24 at UVa.

25 And after sitting on this for a minute and having a

1 discussion with Sean, I realized that this didn't mean that  
2 Dean Eramo was not supportive of activists on campus. It  
3 just -- we were trying to have multiple things in this  
4 illustration, both Dean Eramo sitting in front of this student  
5 and counseling her and also the fact that there were these  
6 kinds of protests happening.

7 Q So you did, in fact, discuss this question of yours with  
8 Sean Woods, the deputy managing editor of Rolling Stone  
9 magazine, correct?

10 A Yes, I did.

11 Q You took that question to Sean Woods, was this too mean?

12 A As part of the rest of my fact-checking of this round,  
13 yes.

14 Q And Sean Woods discussed the image with you, and the  
15 ultimate conclusion reached by Rolling Stone magazine was that  
16 this was not too mean, and it was, in fact, published in the  
17 final version of the article, correct?

18 A Yes. And we made sure to say in the caption just how  
19 beloved she was.

20 Q The caption that says, "Where is the justice," correct?

21 A Yes. That was referring to the no one has ever been  
22 expelled for sexual assault.

23 Q Let's pull up Plaintiff's Trial Exhibit 27. This is the  
24 Columbia Journalism Report. And I want to go to the page  
25 Eramo 04558.

1 A Give me one moment, please.

2 Yes, I'm here. Sorry.

3 Q Okay. I want to ask you about the last sentence in the  
4 second paragraph under the heading "Fact-checking above my pay  
5 grade."

6 It says, "The checker did not provide the school, UVa,  
7 with the details of Jackie's account to Erdely of her assault  
8 at Phi Kappa Psi."

9 Is that correct?

10 A Yes, that's correct. And I --

11 Q That was me. Sorry.

12 A I didn't believe that -- that the press department at the  
13 University of Virginia was the correct source to talk through  
14 the specific details of what happened to Jackie in that room  
15 that night.

16 Q The article mentions another victim named Stacy; is that  
17 correct?

18 A Yes.

19 Q Now, isn't it true that Rolling Stone did provide UVa  
20 with details that it intended to publish about Stacy's case?

21 A That had been an adjudicated case, so I think that was a  
22 different -- that was slightly different because they had  
23 already gone through, like, a process with the school, so it  
24 was -- that was different in my opinion.

25 Q Okay. And Rolling Stone did, in fact, tell -- or, I'm

1   sorry, UVa did, in fact, tell Rolling Stone that the details  
2   it intended to publish about Stacy's case were incorrect; is  
3   that right?

4   A     It was my understanding that the details they informed us  
5   after publication they believed us to have incorrect had to do  
6   with the adjudication process with UVa, not with the details  
7   of what happened to that woman.

8   Q     Okay. But -- so that's a fair qualification.

9         So UVa told Rolling Stone that what they intended to  
10   publish about that victim's experience with the UVa  
11   administration and her case was incorrect; is that right?

12   A     Yes, but that did not have to do with what happened in  
13   that room with her that night. That was not her details of  
14   her rape. That was what happened with her in the process of  
15   dealing with UVa.

16   Q     And that's fair.

17         Did you provide UVa with any of the details that you  
18   intended to publish about Jackie's interactions with  
19   Ms. Eramo?

20   A     No. They told us that they were not at liberty to speak  
21   with us about the details of what happened with a particular  
22   student and Dean Eramo.

23   Q     Let's look at the next paragraph. Under the heading,  
24   "The editors invested Rolling Stone's reputation in a single  
25   source."

1 Do you see that?

2 A Yes.

3 Q This paragraph from Columbia says, "The checker" -- and  
4 that's referring to you, right?

5 A Yes.

6 Q Says, "The checker did try to improve the story's  
7 reporting and attribution of quotations concerning the three  
8 friends. She marked on a draft that Ryan-Randall under  
9 pseudonym-had not been interviewed, and that his shitshow  
10 quote had originated with Jackie. 'Put this on Jackie,' the  
11 checker wrote? 'Any way we can confirm with him?'"

12 And we saw those questions from you earlier, correct?

13 A Yes.

14 Q Columbia went on to say, "She said she talked about this  
15 problem with clarity with Woods and Erdely."

16 And they quote you as saying, "I pushed. They came to  
17 the conclusion that they were comfortable with not making it  
18 clear to readers that they had never contacted Ryan."

19 Did Columbia quote you accurately?

20 A Yes. The quote I believe ends with comfortable. The  
21 rest is Columbia's interpretation.

22 Q And you told Columbia that you pushed Woods and Erdely,  
23 correct?

24 A I did. We had a conversation like we discussed before  
25 that we might want to make this more clearly that it was



1 coming from Jackie and that we as magazine -- as writers had  
2 not been able to be in contact with Ryan directly.

3 Q And Mr. Woods and Ms. Erdely came to the conclusion that  
4 they were comfortable with not making those changes that you  
5 had pushed for, correct?

6 A Yes.

7 Q Ms. Garber-Paul, isn't it true that as a fact checker,  
8 one of your duties is to confront sources about  
9 inconsistencies in their story?

10 A Yes, it is.

11 Q Isn't it true that prior to publication, you were aware  
12 that Jackie's story of her supposed sexual assault had changed  
13 over time?

14 A I was aware that it had changed, yes.

15 Q Isn't it true that during your fact-checking calls with  
16 Jackie, you never once confronted her about the fact that her  
17 story had changed?

18 A I don't recall confronting her about that because I  
19 didn't see that as something that -- it wasn't something that  
20 troubled me deeply because I knew and -- through conversations  
21 I'd had with other people involved in this story and outside  
22 of this story that often a victim of traumatic sexual  
23 assaults, their story solidifies over time. And I was aware  
24 that that could happen.

25 And when I was talking to Jackie, I made sure that I had

1 her recollection to the best of her knowledge.

2 Q Okay. But you never asked Jackie about the stories that  
3 she told other people before she spoke to you. You never  
4 asked her about that, correct?

5 A Which specific stories are you referring to?

6 Q Well, you tell me. You said you were aware that Jackie's  
7 story had changed over time. What was your understanding?

8 A I was aware that others had recalled her saying that it  
9 was five individuals, not seven. And I clarified with her  
10 that it was seven. And that was really the only thing that I  
11 was aware of.

12 I found out after publication that there had been a  
13 question of whether it was forced oral sex or forced vaginal  
14 sex. I can't say whether or not I would have talked to her  
15 about that because I didn't -- I wasn't aware of that until  
16 after publication.

17 Q Okay. So Ms. Erdely never told you prior to publication  
18 that Jackie's story had originally been one of oral sex rather  
19 than of vaginal gang rape, correct?

20 A I don't recall having that conversation.

21 Q When you said you were aware of Jackie having originally  
22 told the story involving maybe five or six men, were you  
23 referring to Emily Renda's testimony?

24 A That was one of them, yeah.

25 PHILLIPS: Brian, if we could pull up Plaintiff's

1 Trial Exhibit 21.

2 Q And I just want to confirm: Is this a document, Miss  
3 Garber-Paul, that you had available to you for fact-checking  
4 the article prior to publication?

5 A Yes.

6 Q Yes, you had it available to you?

7 A Sorry. Yes, yes, I did have it available.

8 Q And you never asked Jackie any questions about Miss  
9 Renda's senate testimony; is that correct?

10 A I didn't ask her specifically about the senate testimony.  
11 I asked how many men there were, and she described to me that  
12 there were seven.

13 Q You never asked her if she had told others a different  
14 number; is that correct?

15 A I don't recall having that conversation with her, no.

16 MR. PHILLIPS: Brian, let's pull up Plaintiff's  
17 Trial Exhibit 18.

18 Q Do you recognize Plaintiff's Trial Exhibit 18, Miss  
19 Garber-Paul?

20 A Yes, I do.

21 Q I believe we've been referring to these as the police  
22 e-mails.

23 Are you aware that these are e-mails that Jackie  
24 forwarded to Ms. Erdely showing her communications with  
25 Ms. Eramo regarding meetings with the police in the spring of

1 2014?

2 A Yes. And Sabrina forwarded them -- provided them to me  
3 as well.

4 Q Okay. And that's what I wanted to ask.

5 I wanted to confirm that as the fact checker for Rolling  
6 Stone magazine, you had these e-mails available to you when  
7 you were fact-checking the article prior to publication?

8 A Yes, I did.

9 MR. PHILLIPS: Brian, could we pull up Plaintiff's  
10 Trial Exhibit 13, please?

11 Q Miss Garber-Paul, is this a document that you had  
12 available to you for your fact-checking prior to the  
13 publication of "A Rape On Campus"?

14 A Yes, it is.

15 Q And these are e-mails between Ms. Eramo and Jackie,  
16 correct?

17 A Yes.

18 MR. PHILLIPS: If I may approach, Your Honor?

19 THE COURT: You may.

20 - - -

21 (Plaintiff's Exhibit 156 marked for identification.)

22 - - -

23 Q Miss Garber-Paul, I'm handing what you what we've marked  
24 for identification as Plaintiff's 362.

25 A Yes.

1 MR. PHILLIPS: I'll be with you in just a moment.

2 Let me confirm what the document is with Miss Garber-Paul.

3 Q Miss Garber-Paul, this is a chain of e-mails between you  
4 and Sean Woods in December of 2014?

5 A Yes, it seems to be an e-mail he sent me and a response I  
6 sent back.

7 Q Okay.

8 MR. PHILLIPS: Yes, at this time I would move the  
9 admission of this document as Plaintiff's Trial Exhibit --

10 THE CLERK: Plaintiff's 156.

11 MR. PHILLIPS: 156.

12 THE COURT: 156 without objection.

13 - - -

14 (Plaintiff's Exhibit 156 admitted into evidence.)

15 - - -

16 Q Miss Garber-Paul, the first e-mail in this chain at the  
17 bottom, is that an e-mail from Sean Woods to you on December  
18 11th, 2014, at 8:25 p.m.?

19 A Yes, it is.

20 Q And it looks like Mr. Woods sent you a link to an ABC  
21 News article about questions being raised about Rolling  
22 Stone's UVa's rape story; is that correct?

23 A Yes, that's true.

24 Q You responded to Woods at 8:28 p.m., correct?

25 A Yes, that appears to be true.

1 Q Three minutes later?

2 A Yes.

3 Q And you sent him the University of Virginia e-mail  
4 addresses for Kathryn Hendley and Alex Stock, correct?

5 A Correct, I did.

6 Q Okay. Am I correct that you were able to find these  
7 e-mail addresses in three minutes?

8 A Once we had the last names, yes.

9 Q And did you find them using that publicly-available  
10 University of Virginia directory?

11 A Yes, I did.

12 MR. PHILLIPS: I'd like this marked for  
13 identification as PX 281.

14 - - -

15 (Plaintiff's Exhibit 157 marked for identification.)

16 - - -

17 Q Miss Garber-Paul, do you recognize the document I've  
18 handed you as an e-mail exchange in March of 2015 between you  
19 and Andy Young?

20 A Yes, I do.

21 Q And Andy Young was the fact checker for the Columbia  
22 Journalism Report; is that correct?

23 A Yes, he was.

24 MR. PHILLIPS: At this time I'd move the admission  
25 of what's been marked for identification as PX 281 as

1 Plaintiff's Trial Exhibit 157.

2 THE COURT: 157 without objection.

3 - - -

4 (Plaintiff's Exhibit 157 admitted into evidence.)

5 - - -

6 Q Miss Garber-Paul, do you see that Mr. Young asked you  
7 when fact-checking the Columbia report: "Hi, Liz. I just  
8 want to triple check whether you contacted the national Phi  
9 Kappa Psi office to ask for comment about the allegations or  
10 whether Sabrina was the only one to do so. Also, if you did,  
11 did you go into the granular details of the alleged assault or  
12 did you leave it at 'a gang rape at UVa's Phi Psi house in  
13 September 2012'?"

14 Do you see that?

15 A Yes, it's an e-mail I received.

16 Q Okay. Let's look at your response to Mr. Young.

17 You told Mr. Young, "Hey, Andy. Sabrina had been in  
18 contact with Phi Psi. She had been back and forth with the  
19 national chapter (who had in my understanding visited the UVa  
20 after she contacted them) and had gotten a short response from  
21 the UVa chapter. Sabrina told me that they had closed ranks  
22 and weren't offering any information other than they were  
23 looking into it and a denial. Sabrina told me that she did  
24 not think that they were going to provide any additional  
25 information, so I did not follow up further."

1 Is that a response that you sent to Mr. Young?

2 A Yes, I wrote that.

3 Q Is everything in that e-mail true?

4 A Yes, that was our understanding.

5 Q Okay. Ms. Erdely told you that Phi Psi had closed ranks,  
6 correct, and were not offering any information?

7 A That was my understanding, yes.

8 Q Okay. And you independently, as the fact checker for  
9 Rolling Stone, did not reach out to anyone at Phi Kappa Psi  
10 prior to publication of the article; is that correct?

11 A I was comfortable with the responses we had gotten from  
12 Phi Kappa Psi.

13 Q Okay. The answer to my question is, yes, as the fact  
14 checker for Rolling Stone magazine, you did not reach out to  
15 anyone at Phi Kappa Psi prior to the publication of "A Rape On  
16 Campus"?

17 A Yes, that's true.

18 Q Let's pull up Plaintiff's Trial Exhibit 46, please. It  
19 should be in the same big binder in front of you.

20 A This guy here? I think it ends at 45.

21 Q Oh, it might be another binder. It should be the first  
22 one in here. I'll trade with you.

23 A This one here?

24 Q Yup.

25 A Thank you.



1 Q Do you recognize Plaintiff's Trial Exhibit 46 as a  
2 November 2014 e-mail chain between you and Anthony de Bruyn?

3 A Yes, I do.

4 Q Mr. de Bruyn was a communications -- an individual in  
5 communications with the University of Virginia, correct?

6 A Yes, he was my contact who I was instructed to go through  
7 for everything UVa-related.

8 Q I want to ask you about the November 12, 2014, 1:04 p.m.  
9 from Mr. de Bruyn to you. That's on RS013302.

10 A Sure.

11 Q You had asked Mr. De Bruyn, "Is it accurate to say that  
12 the UVa administration believes that Rolling Stone publishing  
13 this story might discourage sexual assault victims from coming  
14 forward in the future?"

15 Do you see that?

16 A Yes.

17 Q Mr. de Bruyn's response was, "We are concerned that any  
18 story be factually accurate and clearly state that students  
19 are encouraged by us to report sexual misconduct, including  
20 sexual assault."

21 Do you see that?

22 A Yes, I see that.

23 Q Was that quote from Mr. de Bruyn included in the article?

24 A No, but I certainly kept it in mind as I was  
25 fact-checking.

1 Q Let's look at Mr. de Bruyn's response to your fifth  
2 question, below that.

3 Mr. de Bruyn told you, "We believe that all students are  
4 entitled to appropriate due process, including students  
5 accused of sexual assault. An alleged assault would need to  
6 have been fully and fairly adjudicated before the Sexual  
7 Misconduct Board, giving the accused student a right to appear  
8 and present evidence before any sanction could be imposed  
9 based upon that alleged assault. Again, the Sexual Misconduct  
10 Board is required to consider suspension or expulsion for any  
11 student found responsible for sexual misconduct."

12 Do you see that?

13 A Yes, I do.

14 Q And finally, I wanted to go back to Mr. de Bruyn's  
15 November 11th, 2014 e-mail. This is RS013304.

16 You asked Mr. de Bruyn whether Dean Eramo was the primary  
17 intake person for any complaints.

18 Do you see that?

19 A Yes, I do.

20 Q Mr. de Bruyn told you, "It is important to note that a  
21 complaint is not the same as reporting and/or making the  
22 office of the dean of students aware that an incident may have  
23 occurred (i.e., consulting with Dean Eramo). A complaint  
24 means a student has elected to invoke the university's formal  
25 disciplinary process."

1 Do you see that?

2 A Yes, I remember going through this in detail. It was a  
3 bit confusing trying to figure out exactly what the  
4 terminology was, so I know we kept -- I know we had a long  
5 conversation about that on the phone, and we kind of kept  
6 coming back to it.

7 Q Okay. Was it your understanding at the time you were  
8 fact-checking the article that Jackie had not filed a formal  
9 complaint with the University of Virginia?

10 A Yes.

11 Q So Jackie's allegations had not been adjudicated,  
12 correct?

13 A Yes, absolutely.

14 Q Do you ever ask Mr. de Bruyn whether Jackie's allegations  
15 had been reported to the Charlottesville Police Department?

16 A No. Again, I was not -- I was told to not bring up  
17 specifics of the allegations and specific students with  
18 university -- the university press department, so...

19 Q Did you, as the fact checker for Rolling Stone magazine,  
20 ever ask Jackie her waiver -- for her waiver so that you could  
21 obtain her records from the University of Virginia?

22 A No, I was not aware that that was an option.

23 Q Sabrina Rubin Erdely never mentioned that option to you?

24 A That there was a way to get a waiver to receive her  
25 documents? No. I don't remember having that conversation,

1 but I know I wasn't aware of it.

2 THE COURT: Did Ms. Erdely provide you with a tape,  
3 a recording, of her interview with the UVa president?

4 THE WITNESS: No. It's usually standard for us to  
5 just get transcripts of all of these conversations, because  
6 if we have to sit there and listen to all the tape in real  
7 time...

8 THE COURT: Did you get that transcript?

9 THE WITNESS: I did get that transcript, yes.

10 BY MR. PHILLIPS:

11 Q Miss Garber-Paul, I want to recap some of the characters  
12 that are in the article with you, the fact checker, and figure  
13 out what Rolling Stone did or didn't know at the time of  
14 publication.

15 I want to start with the man named Randall in the  
16 article. His real name is Ryan Duffin, correct?

17 A Okay.

18 Q Rolling Stone did not know Randall's real name at the  
19 time of publication, correct?

20 A We did not know his full name, that's true.

21 Q The article does not disclose to readers that Rolling  
22 Stone did not know Randall's full name, correct?

23 A No, it does not.

24 Q And Jackie had refused to provide Ms. Erdely and Rolling  
25 Stone with Randall's name and contact information, correct?

1 A Yes, she declined to do so. It was my understanding that  
2 she declined to do so based on his wishes. But, yes, we did  
3 not have his contact information.

4 Q The article does not disclose to readers that Jackie  
5 declined to provide Ryan's real name and contact information  
6 to Rolling Stone, correct?

7 A Yes, that's true.

8 Q Cindy, real name Kathryn Hendley. Rolling Stone did not  
9 know Cindy's real name at the time of publication, correct?

10 A That's true.

11 Q The article does not disclose to readers that Rolling  
12 Stone did not know Cindy's real name at the time of  
13 publication, correct?

14 A We did not know her full name, and we did not disclose  
15 that in the article, that's true.

16 Q Jackie had refused to provide Cindy's real name and  
17 contact info to Ms. Erdely and to you, correct?

18 A She did not provide it to either of us, that's true.

19 Q And you all asked for it, right?

20 A Yes.

21 Q The article does not disclose to readers that Jackie  
22 refused to provide Cindy's real name and contact information  
23 to Rolling Stone, correct?

24 A Yes, that's true.

25 Q The third friend, Andy, his real name is Alex Stock?

1 A Yes.

2 Q Rolling Stone did not know Andy's real name at the time  
3 of publication, correct?

4 A Yes, that's true.

5 Q The article does not disclose to readers that Rolling  
6 Stone did not know Andy's real name at the time of  
7 publication, correct?

8 A We did not know his full name, yes, and we don't disclose  
9 that. We knew his real first name.

10 Q Jackie had refused to provide Andy's last name or contact  
11 information to Ms. Erdely and to you, correct?

12 A Yes. We did not obtain that from Jackie.

13 Q And the article -- in the article, Rolling Stone did not  
14 disclose to its readers that Jackie had refused to provide  
15 that information, correct?

16 A Yes. That's not made clear.

17 Q Okay. And there's the supposed ringleader of the gang  
18 rape, Drew/Tom/Jay, correct?

19 A Yes.

20 Q Rolling Stone did not know Drew's real name at the time  
21 of publication, correct?

22 A Yes. We did not know his full name.

23 Q The article does not disclose to readers that Rolling  
24 Stone did not know Drew's real name, correct?

25 A No, it does not say in there that we don't have his full

1 name.

2 Q Jackie refused to provide Drew's real name and contact  
3 information to Ms. Erdely and to Rolling Stone, correct?

4 A Yes. We could not obtain that. She told us she was  
5 afraid of her attackers.

6 Q And the article does not disclose to Rolling Stone's  
7 readers that Jackie had refused to provide Drew's real name or  
8 contact information, correct?

9 A Yes. We don't make that explicitly clear.

10 Q Then there's the other alleged rapist that allegedly  
11 assaulted Jackie with a bottle and was in her tiny  
12 anthropology discussion group. Rolling Stone did not know  
13 that man's name at the time of publication, correct?

14 A Yes, that's true.

15 Q The article does not disclose to readers that Rolling  
16 Stone did not know who that man was, correct?

17 A No, we did not.

18 Q Jackie had refused to provide that man's name to Rolling  
19 Stone, correct?

20 A Yes, though again, she told us she was afraid of her  
21 attackers and uncomfortable disclosing the names of them. And  
22 we were working under -- we were working under that reality.

23 Q The article does not disclose to readers that Jackie  
24 refused to provide any of her attackers' names to Rolling  
25 Stone, correct?

1 A Yes, we did not -- we didn't explicitly say that we  
2 didn't have their names in the article.

3 Q Then there are the two other alleged Phi Psi gang rape  
4 victims, who Jackie claimed to you-all were called Maddie and  
5 Becky, correct?

6 A Yes, but I don't believe we used those names in the  
7 article.

8 Q Rolling Stone did not know these two other alleged  
9 victims' real names at the time of publication, correct?

10 A Yes. We only had first names.

11 Q The article does not disclose to Rolling Stone's readers  
12 that Rolling Stone magazine did not know these women's  
13 identities, correct?

14 A Yes, but give me one moment.

15 Yes, though we don't actually, like, name them as  
16 individuals in this. We said that she had come across -- she  
17 says that she had been confided that they knew they were --  
18 that she had been told about these gang rape victims.

19 So I actually felt it was clear that since we talk about  
20 this being confided to her, told to her in confidence, that I  
21 don't think we're making -- though we don't make it clear that  
22 we don't know, I don't think we're -- I don't think it appears  
23 to a reader necessarily that we have their contact  
24 information.

25 Q Well, the final article actually says neither woman was



1 willing to speak with Rolling Stone, doesn't it?

2 A Yes, and that was our understanding based on text  
3 messages and also speaking with Jackie, who we took to be a  
4 very credible witness.

5 Q Doesn't that disclaimer suggest to readers that Rolling  
6 Stone contacted them and they declined to speak with Rolling  
7 Stone?

8 A What is the wording again?

9 Can you point this out to me where this is?

10 Q Plaintiff's Trial Exhibit 1 at RS001078.

11 A Okay.

12 Q Do you see the paragraph that begins "a bruise still  
13 mottling her face"?

14 A Yes.

15 Neither woman was willing to talk to RS. I think that  
16 could -- that doesn't necessarily mean that we were able to  
17 find them and reach out for comment. We knew that neither  
18 woman was willing to talk to RS.

19 Q The article certainly does not disclose to readers that  
20 Rolling Stone didn't know who these women were. You agree  
21 with that, right?

22 A No, but we don't ever say that we do know who they are.  
23 I mean, we say that they -- they had confided in Jackie, which  
24 to me implies that there's a certain confidence. And then we  
25 say that neither woman was willing to talk to RS.

1       So, yes, we didn't make it explicitly clear that we  
2 weren't able to locate them, but I don't think we were  
3 misleading readers.

4       Q     Do you agree or disagree that the article suggests that  
5 there were two other victims of gang rapes at Phi Kappa Psi  
6 similar to Jackie's?

7       A     Yes, we do.

8       Q     And the article does not disclose to readers that Rolling  
9 Stone did not know who those women were at the time of  
10 publication, correct?

11      A     Yes, that's true.

12      Q     Okay. The article also does not disclose to readers that  
13 Jackie declined to provide those women's names and contact  
14 information to Rolling Stone, correct?

15      A     No, we don't explicitly disclose that.

16      Q     Now, the article also attributes to Jackie certain claims  
17 about Ms. Eramo, doesn't it?

18      A     Yes, it does.

19      Q     For example, it says that Jackie claimed that Ms. Eramo  
20 called UVa the rape school, right?

21      A     Yes. And we have that coming from Jackie.

22      Q     That's right. And it also says that Ms. Eramo  
23 discouraged Jackie from sharing her story, correct?

24      A     We had that she discouraged her from sharing her story  
25 with Rolling Stone.

1 Q It doesn't say with Rolling Stone, does it? It says,  
2 discouraged her from sharing her story.

3 A Yes, it does, but in the context of that paragraph, I  
4 think it's pretty clear that we're talking about this story  
5 particularly.

6 And -- because we do have other places in the article  
7 where Dean Eramo does say that it's up to her if she wants to  
8 talk about her story.

9 Q The article also attributes to Jackie the claim that  
10 Ms. Eramo had a nonreaction to hearing about the two other  
11 alleged Phi Kappa Psi gang rape victims, correct?

12 A Yes, though I took that to mean that Dean Eramo did not  
13 have the same reaction as the other, you know, 20-year-old  
14 people that had heard about this who might have a more  
15 emotional reaction. I took nonreaction as the same  
16 no-nonsense professional manner that I heard from other people  
17 at UVa and I witnessed myself in the WUVA video.

18 Q Do you agree with me that the "rape school" quote, the  
19 "discouraged Jackie from sharing her story," and the  
20 "nonreaction," do you agree that those were all sourced from  
21 Jackie?

22 A The "rape school" quote, the "discouraged" --

23 Q That Ms. Eramo discouraged her from sharing her story --

24 A Uh-huh.

25 Q -- and Ms. Eramo had a nonreaction to hearing about the

1 two other alleged Phi Kappa Psi gang rape victims.

2 Do you agree with me that all of those claims in the  
3 article are sourced to Jackie?

4 A Yes, and I believe we make it clear as well, for all  
5 three of those, that she is our source for that.

6 Q But the readers of Rolling Stone who read those claims  
7 about Ms. Eramo sourced from Jackie were not told that Jackie  
8 refused to identify to Rolling Stone: Andy, Cindy, Kathryn,  
9 the two other alleged Phi Kappa Psi gang rape victims, Drew,  
10 the eight other alleged rapists.

11 None of that was disclosed to readers, correct?

12 A Not as -- not explicitly no, yeah.

13 Q Don't you think that Rolling Stone readers might have  
14 evaluated the claims about Ms. Eramo in the article  
15 differently if the article had disclosed to readers that  
16 Jackie refused to provide all of that information to Rolling  
17 Stone?

18 A I think it would have certainly shaped their view, but I  
19 can't tell you what they would have or would not have -- what  
20 conclusions they would have come to.

21 MR. PHILLIPS: Miss Garber-Paul, I have no further  
22 questions for you at this time.

23 I'll pass the witness.

24 THE COURT: So we'll call it a day, Ms. McNamara.

25 MS. McNAMARA: That's what I was going to suggest,

1 Your Honor, given the hour. Thank you.

2 THE COURT: Ladies and gentlemen, this will be the  
3 end of today's session of the trial, and we'll send you home  
4 after having done a hard day's work.

5 I would again ask you that while you're away from the  
6 Court you not discuss the case with anyone at home, don't  
7 permit anyone to discuss it with you. You know the drill.  
8 Don't listen to anything said about the case on the radio or  
9 TV, don't read any account in the newspaper, and certainly do  
10 not try to undertake any research about the case on your own.

11 Put the matter out of your minds, come back tomorrow  
12 refreshed and ready for another day's evidence.

13 And I'll ask the witness not to discuss her pending  
14 testimony with counsel from either side till the  
15 cross-examination tomorrow.

16 You folks are excused. Thank you.

17 (The jury was excused for the day at 6:00 p.m.)

18 THE COURT: Let me ask Counsel -- you all can have a  
19 seat for just a moment.

20 We have received another communication from a juror, and  
21 it's not a difficult proposition.

22 Miss Lisa Story reports that she has a preplanned event  
23 that she is hosting on Friday night. "I have changed the time  
24 from 6 to 7 p.m. I would like to request a dismissal of 5:30  
25 on this coming Friday to allow me travel time home."

1 I see no reason not to grant the request. They've been  
2 such a diligent, hard-working jury.

3 MS. McNAMARA: I couldn't agree more, Your Honor.  
4 We've asked a lot of these people.

5 THE COURT: It's hard to deny her her extra half  
6 hour. So we'll announce tomorrow that that's going to be  
7 granted.

8 I hand the note to Miss Moody and ask her to make the  
9 juror's note a part of the record in the case.

10 Is there anything else that needs to be taken up this  
11 afternoon from anyone?

12 MS. McNAMARA: No, Your Honor.

13 THE COURT: Well, maybe, maybe not.

14 MR. FINNEY: Just one housekeeping matter, Your  
15 Honor.

16 THE COURT: Yes, sir.

17 MR. FINNEY: To follow up on our conversation in  
18 chambers, I did want to tender the defendants' joint defense  
19 and confidentiality agreement for the Court's in camera  
20 review. It has not been provided to plaintiff's counsel.  
21 We'd also ask this be filed under seal.

22 THE COURT: I take it there's no objection to it  
23 being filed under seal at the present time. It may have  
24 additional relevance down the road, but as of today, it seems  
25 that that's the appropriate disposition for the agreement.

1 So that request will be granted. I'll ask you to hand it  
2 to Ms. Moody, and she will see that it's filed under seal.

3 Anything else?

4 If not, we'll ask the marshal declare the Court adjourned  
5 for the day.

6 (Court adjourned for the day at 6:03 p.m.)

7 \* \* \*

8  
9  
10  
11 CERTIFICATE OF REPORTER

12  
13  
14 I certify that the foregoing is a correct transcript of  
15 the record of proceedings in the above-entitled matter.

16  
17  
18  
19 10/24/16

/s/ Lance A. Boardman, RDR, CRR